

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

DEFINITION OF “INDEPENDENT STUDENT”; APPLICATION TO SPECIFIED PERIODS OF ENROLLMENT

Section 406(b)(5), formerly section 406(b)(4), of Pub. L. 99-498, renumbered Pub. L. 100-50, § 22(e)(2), June 3, 1987, 101 Stat. 361, provided that: “The definition of independent student contained in section 480(d) of the Act [20 U.S.C. 1087vv(d)] as amended by subsection (a) of this section shall apply with respect to the determination of such need for periods of enrollment beginning on or after January 1, 1987, in the case of programs operated under part B of title IV of the Act [part B of this subchapter], or for periods of enrollment beginning on or after July 1, 1987, in the case of programs operated under subpart 2 of part A and parts C and E of such title [subpart 2 of part A of this subchapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare, and part D of this subchapter].”

[References to subpart 2 of part A of title IV of Pub. L. 89-329 deemed, after July 23, 1992, to refer to subpart 3 of such part, see section 402(b) of Pub. L. 102-325, set out as a note under section 1070a-11 of this title.]

PART F—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

CODIFICATION

This part was originally added as part E of title IV of Pub. L. 89-329 by Pub. L. 90-575, title I, § 151, Oct. 16, 1968, 82 Stat. 1032, and subsequently redesignated part F of said title IV by Pub. L. 92-318, title I, § 137(b), June 23, 1972, 86 Stat. 273, and then part G of said title IV by Pub. L. 99-498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1454. For codification purposes, the letter designation of this part was originally changed from “E” to “D.” It was subsequently rechanged to “E” when this part was redesignated “F”, and then to “F” when this part was redesignated “G”. See Codification notes preceding sections 1087a and 1087aa of this title.

Part G of title IV of the Higher Education Act of 1965, comprising this part which was editorially designated as part F of this subchapter, see Codification note above, was originally enacted by Pub. L. 89-329, title IV, §§ 461 to 464 and 469, as added by Pub. L. 90-575, title I, §§ 151, 152, Oct. 16, 1968, 82 Stat. 1032, 1033; amended Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92-318, June 23, 1972, 86 Stat. 235; Pub. L. 94-482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95-43, June 15, 1977, 91 Stat. 213; Pub. L. 95-180, Nov. 15, 1977, 91 Stat. 1372; Pub. L. 95-566, Nov. 1, 1978, 92 Stat. 2402; S. Res. 30, Mar. 7, 1979; Pub. L. 96-49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96-374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 98-79, Aug. 15, 1983, 97 Stat. 476; Pub. L. 99-272, Apr. 7, 1986, 100 Stat. 82. Such part is shown herein, however, as having been added by Pub. L. 99-498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1475, without reference to such intervening amendments because of the extensive revision of the part’s provisions by Pub. L. 99-498.

§ 1088. Definitions

(a) Academic and award year

(1) For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term “award year” shall be defined as the period beginning July 1 and ending June 30 of the following year.

(2)(A) For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term “academic year” shall—

(i) require a minimum of 30 weeks of instructional time for a course of study that measures its program length in credit hours; or

(ii) require a minimum of 26 weeks of instructional time for a course of study that measures its program length in clock hours; and

(iii) require an undergraduate course of study to contain an amount of instructional time whereby a full-time student is expected to complete at least—

(I) 24 semester or trimester hours or 36 quarter credit hours in a course of study that measures its program length in credit hours; or

(II) 900 clock hours in a course of study that measures its program length in clock hours.

(B) The Secretary may reduce such minimum of 30 weeks to not less than 26 weeks for good cause, as determined by the Secretary on a case-by-case basis, in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree and that measures program length in credit hours or clock hours.

(b) Eligible program

(1) For purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, the term “eligible program” means a program of at least—

(A) 600 clock hours of instruction, 16 semester hours, or 24 quarter hours, offered during a minimum of 15 weeks, in the case of a program that—

(i) provides a program of training to prepare students for gainful employment in a recognized profession; and

(ii) admits students who have not completed the equivalent of an associate degree; or

(B) 300 clock hours of instruction, 8 semester hours, or 12 hours, offered during a minimum of 10 weeks, in the case of—

(i) an undergraduate program that requires the equivalent of an associate degree for admissions; or

(ii) a graduate or professional program.

(2)(A) A program is an eligible program for purposes of part B of this subchapter if it is a program of at least 300 clock hours of instruction, but less than 600 clock hours of instruction, offered during a minimum of 10 weeks, that—

(i) has a verified completion rate of at least 70 percent, as determined in accordance with the regulations of the Secretary;

(ii) has a verified placement rate of at least 70 percent, as determined in accordance with the regulations of the Secretary; and

(iii) satisfies such further criteria as the Secretary may prescribe by regulation.

(B) In the case of a program being determined eligible for the first time under this paragraph,

such determination shall be made by the Secretary before such program is considered to have satisfied the requirements of this paragraph.

(3) An otherwise eligible program that is offered in whole or in part through telecommunications is eligible for the purposes of this subchapter and part C of subchapter I of chapter 34 of title 42 if the program is offered by an institution, other than a foreign institution, that has been evaluated and determined (before or after February 8, 2006) to have the capability to effectively deliver distance education programs by an accrediting agency or association that—

(A) is recognized by the Secretary under subpart 2 of part G of this subchapter; and

(B) has evaluation of distance education programs within the scope of its recognition, as described in section 1099b(n)(3) of this title.

(4) For purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, the term “eligible program” includes an instructional program that, in lieu of credit hours or clock hours as the measure of student learning, utilizes direct assessment of student learning, or recognizes the direct assessment of student learning by others, if such assessment is consistent with the accreditation of the institution or program utilizing the results of the assessment. In the case of a program being determined eligible for the first time under this paragraph, such determination shall be made by the Secretary before such program is considered to be an eligible program.

(c) Third party servicer

For purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, the term “third party servicer” means any individual, any State, or any private, for-profit or nonprofit organization, which enters into a contract with—

(1) any eligible institution of higher education to administer, through either manual or automated processing, any aspect of such institution’s student assistance programs under this subchapter and part C of subchapter I of chapter 34 of title 42; or

(2) any guaranty agency, or any eligible lender, to administer, through either manual or automated processing, any aspect of such guaranty agency’s or lender’s student loan programs under part B of this subchapter, including originating, guaranteeing, monitoring, processing, servicing, or collecting loans.

(d) Definitions for military deferments

For purposes of parts B, C, and D of this subchapter:

(1) Active duty

The term “active duty” has the meaning given such term in section 101(d)(1) of title 10, except that such term does not include active duty for training or attendance at a service school.

(2) Military operation

The term “military operation” means a contingency operation as such term is defined in section 101(a)(13) of title 10.

(3) National emergency

The term “national emergency” means the national emergency by reason of certain ter-

rorist attacks declared by the President on September 14, 2001, or subsequent national emergencies declared by the President by reason of terrorist attacks.

(4) Serving on active duty

The term “serving on active duty during a war or other military operation or national emergency” means service by an individual who is—

(A) a Reserve of an Armed Force ordered to active duty under section 12301(a), 12301(g), 12302, 12304, or 12306 of title 10 or any retired member of an Armed Force ordered to active duty under section 688 of such title, for service in connection with a war or other military operation or national emergency, regardless of the location at which such active duty service is performed; and

(B) any other member of an Armed Force on active duty in connection with such emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which such member is normally assigned.

(5) Qualifying National Guard duty

The term “qualifying National Guard duty during a war or other military operation or national emergency” means service as a member of the National Guard on full-time National Guard duty (as defined in section 101(d)(5) of title 10) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32 in connection with a war, other military operation, or a national emergency declared by the President and supported by Federal funds.

(e) Consumer reporting agency

For purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, the term “consumer reporting agency” has the meaning given the term “consumer reporting agency that compiles and maintains files on consumers on a nationwide basis” in Section¹ 1681a(p) of title 15.

(f) Definition of educational service agency

For purposes of parts B, C, and D, the term “educational service agency” has the meaning given the term in section 7801 of this title.

(Pub. L. 89-329, title IV, § 481, as added Pub. L. 99-498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1476; amended Pub. L. 100-50, § 15(1), June 3, 1987, 101 Stat. 355; Pub. L. 101-239, title II, § 2007(b), (c), Dec. 19, 1989, 103 Stat. 2120, 2121; Pub. L. 101-508, title III, § 3005(b), Nov. 5, 1990, 104 Stat. 1388-28; Pub. L. 102-26, § 2(a)(2), (3), (d)(2)(A), Apr. 9, 1991, 105 Stat. 123, 124; Pub. L. 102-325, title IV, § 481, July 23, 1992, 106 Stat. 609; Pub. L. 103-208, § 2(h)(1)-(6), Dec. 20, 1993, 107 Stat. 2475, 2476; Pub. L. 105-216, § 12, July 29, 1998, 112 Stat. 908; Pub. L. 105-244, title I, § 101(c), Oct. 7, 1998, 112 Stat. 1617; Pub. L. 109-171, title VIII, §§ 8007(d), 8020(a), (b), Feb. 8, 2006, 120 Stat. 161, 177; Pub. L. 110-315, title IV, § 481, Aug. 14, 2008, 122 Stat. 3271; Pub. L. 111-39, title IV, § 407(b)(1), July 1, 2009, 123 Stat. 1950.)

¹ So in original. Probably should not be capitalized.

PRIOR PROVISIONS

A prior section 1088, Pub. L. 89-329, title IV, § 481, as added Pub. L. 96-374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1443, defined “institution of higher education” for this subchapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare, prior to the general amendment of this part by Pub. L. 99-498.

Another prior section 1088, Pub. L. 89-329, title IV, § 491, formerly § 461, as added Pub. L. 90-575, title I, § 151, Oct. 16, 1968, 82 Stat. 1032, renumbered § 491 and amended Pub. L. 92-318, title I, §§ 131(c), 137(b), title X, § 1001(c)(3), June 23, 1972, 86 Stat. 259, 272, 381; amended Pub. L. 95-180, § 1(b), Nov. 15, 1977, 91 Stat. 1372; Pub. L. 95-566, § 6, Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96-49, § 5(e), Aug. 13, 1979, 93 Stat. 352, defined terms for this subchapter and part C of subchapter I of chapter 34 of title 42, prior to the general revision of this part by Pub. L. 96-374.

AMENDMENTS

2009—Subsec. (c). Pub. L. 111-39 substituted “any State, or any private, for-profit or nonprofit organization,” for “or any State, or private, profit or nonprofit organization” in introductory provisions.

2008—Subsec. (a)(2)(B). Pub. L. 110-315, § 481(1), inserted “and that measures program length in credit hours or clock hours” after “baccalaureate degree”.

Subsecs. (e), (f). Pub. L. 110-315, § 481(2), added subsecs. (e) and (f).

2006—Subsec. (a)(2). Pub. L. 109-171, § 8020(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term ‘academic year’ shall require a minimum of 30 weeks of instructional time, and, with respect to an undergraduate course of study, shall require that during such minimum period of instructional time a full-time student is expected to complete at least 24 semester or trimester hours or 36 quarter hours at an institution that measures program length in credit hours, or at least 900 clock hours at an institution that measures program length in clock hours. The Secretary may reduce such minimum of 30 weeks to not less than 26 weeks for good cause, as determined by the Secretary on a case-by-case basis, in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree.”

Subsec. (b)(3), (4). Pub. L. 109-171, § 8020(b), added pars. (3) and (4).

Subsec. (d). Pub. L. 109-171, § 8007(d), added subsec. (d).

1998—Pub. L. 105-244 redesignated subsecs. (d) to (f) as (a) to (c), respectively, and struck out former subsecs. (a) to (c) which defined the terms “institution of higher education”, “proprietary institution of higher education”, and “postsecondary vocational institution”. See section 1002 of this title.

Subsec. (a)(4). Pub. L. 105-216, which directed the amendment of par. (4), effective 1 year after July 29, 1998, by designating existing provisions as subpar. (A), redesignating former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), and by adding subpar. (B) to read as follows: “Subparagraph (A)(i) shall not apply to a nonprofit institution whose primary function is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution’s management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, and December 31, 1998.”, could not be executed because subsec. (a) did not contain a par. (4) subsequent to amendment by Pub. L. 105-244. See above.

1993—Subsec. (a)(3)(B). Pub. L. 103-208, § 2(h)(1), inserted before semicolon at end “, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that pro-

vides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree”.

Subsec. (a)(3)(D). Pub. L. 103-208, § 2(h)(2), substituted “do not have a high school diploma or its recognized equivalent” for “are admitted pursuant to section 1091(d) of this title” and inserted before period at end “, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that it exceeds such limitation because it serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a high school diploma or its recognized equivalent”.

Subsec. (a)(4)(A). Pub. L. 103-208, § 2(h)(3), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “such institution has filed for bankruptcy; or”.

Subsec. (d)(2). Pub. L. 103-208, § 2(h)(4), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term ‘academic year’ shall require a minimum of 30 weeks of instructional time in which a full-time student is expected to complete at least 24 semester or trimester hours or 36 quarter hours at an institution which measures program length in credit hours or at least 900 clock hours at an institution which measures program length in clock hours.”

Subsec. (e)(2). Pub. L. 103-208, § 2(h)(5), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The Secretary shall develop regulations to determine the quality of programs of less than 600 clock hours in length. Such regulations shall require, at a minimum, that the programs have a verified rate of completion of at least 70 percent and a verified rate of placement of at least 70 percent. Pursuant to these regulations and notwithstanding paragraph (1), the Secretary shall allow programs of less than 600 clock hours, but greater than 300 clock hours, in length to be eligible to participate in the programs authorized under part B of this subchapter.”

Subsec. (f). Pub. L. 103-208, § 2(h)(6), substituted “individual, or any State,” for “State” in introductory provisions.

1992—Pub. L. 102-325, § 481(a), amended section catchline.

Subsec. (a). Pub. L. 102-325, § 481(a), added subsec. (a) and struck out former subsec. (a) which contained pars. (1) and (2) defining “institution of higher education” and “accredited” and par. (3) which related to recognition of accreditation of eligible institutions of higher education.

Subsec. (b). Pub. L. 102-325, § 481(b)(4), struck out at end “For the purpose of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.”

Subsec. (b)(1). Pub. L. 102-325, § 481(b)(1), substituted “an eligible program” for “not less than a 6-month program”.

Subsec. (b)(4). Pub. L. 102-325, § 481(b)(2), substituted “pursuant to part G of this subchapter,” for “for this purpose, and”.

Subsec. (b)(5), (6). Pub. L. 102-325, § 481(b)(3), substituted “years, and” for “years.” in cl. (5) and added cl. (6).

Subsec. (c)(1). Pub. L. 102-325, § 481(c), substituted “an eligible program” for “not less than a six-month program”.

Subsec. (d). Pub. L. 102-325, § 481(d), inserted “and award” after “Academic” in heading and amended text generally. Prior to amendment, text read as follows: “For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term ‘academic year’ shall be defined by the Secretary by regulation.”

Subsec. (e). Pub. L. 102-325, § 481(e), amended subsec. (e) generally, substituting provisions relating to eligi-

ble program for provisions relating to impact of loss of accreditation.

Subsec. (f). Pub. L. 102-325, §481(f), added subsec. (f). 1991—Subsec. (b). Pub. L. 102-26, §2(d)(2)(A), repealed Pub. L. 101-508, §3005(b). See 1990 Amendment note below.

Pub. L. 102-26, §2(a)(2), struck out “and who have the ability to benefit (as determined by the institution under section 1091(d) of this title) from the training offered by the institution” before period at end of second sentence, and struck out at end “The Secretary shall not promulgate regulations defining the admissions procedures or remediation programs that must be used by an institution in admitting students on the basis of their ability to benefit from the training offered and shall not, as a condition of recognition under section 413(e) of this Act, impose upon any accrediting body or bodies standards which are different or more restrictive than the standards provided in this subsection.”

Subsec. (c). Pub. L. 102-26, §2(a)(3), struck out before period at end “and who have the ability to benefit (as determined by the institution under section 1091(d) of this title) from the training offered by the institution”.

1990—Subsec. (b). Pub. L. 101-508, which inserted “, except in accordance with section 1091(d) of this title,” after “shall not” in fourth sentence, was repealed by Pub. L. 102-26, §2(d)(2)(A). See Construction of 1991 Amendment note below.

1989—Subsec. (a)(1). Pub. L. 101-239, §2007(b)(1), substituted “Subject to subsection (e) of this section, for the purpose” for “For the purpose”.

Subsec. (a)(3). Pub. L. 101-239, §2007(c), added par. (3).

Subsec. (e). Pub. L. 101-239, §2007(b)(2), added subsec. (e).

1987—Subsec. (c). Pub. L. 100-50 substituted “section 1091(d) of this title” for “subsection (d) of this section”.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109-171, set out as a note under section 1002 of this title.

Amendment by section 8007(d) of Pub. L. 109-171 applicable with respect to all loans under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq., 42 U.S.C. 2751 et seq.), see section 8007(f) of Pub. L. 109-171, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

Amendment by Pub. L. 105-216 effective 1 year after July 29, 1998, see section 13 of Pub. L. 105-216, set out as an Effective Date note under section 4901 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 498 of Pub. L. 102-325 provided that: “The changes made in part G of title IV of the Act [20 U.S.C. 1088 et seq.] by the amendments made by this part [part G (§§481-498) of title IV of Pub. L. 102-325, enacting sections 1091b, 1092c, 1094a, 1094b, 1098a, and 1098b of this title, amending sections 1088 to 1091, 1092, 1092b, 1093, 1094, 1095, 1096, 1097, and 1098 of this title, and repealing

section 1096a of this title] shall take effect on the date of enactment of this Act [July 23, 1992], except that—

“(1) as otherwise provided in such part G;

“(2) the changes in section 481(a) [20 U.S.C. 1088(a)], relating to the definition of institution of higher education, other than paragraph (4) of such section, shall be effective on and after October 1, 1992;

“(3) section 481(e) as added by such amendments, relating to the definition of eligible program, shall be effective on and after July 1, 1993;

“(4) section 484(m)(1) [20 U.S.C. 1091(m)(1)], relating to proportion of courses permitted to be correspondence courses, as added by such amendments shall be effective on and after October 1, 1992;

“(5) the changes in section 485 [20 U.S.C. 1092], relating to disclosures, shall be effective with respect to periods of enrollment beginning on or after July 1, 1993;

“(6) the changes in section 488 [20 U.S.C. 1095], relating to transfers of allotments, shall apply with respect to funds provided for award years beginning on or after July 1, 1993; and

“(7) the changes in section 489 [20 U.S.C. 1096], relating to payments for administrative expenses, shall apply with respect to funds provided for award years beginning on or after July 1, 1993.”

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-26 applicable to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1991, see section 2(d)(1) of Pub. L. 102-26, set out as a note under section 1085 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 3005(c) of Pub. L. 101-508, which provided that the amendments made by section 3005 (amending this section and section 1091 of this title) were to apply to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after Jan. 1, 1991, was repealed by section 2(d)(2)(A) of Pub. L. 102-26. See Construction of 1991 Amendment note below.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

CONSTRUCTION OF 2006 AMENDMENT

Nothing in amendment by section 8007(d) of Pub. L. 109-171 to be construed to authorize any refunding of any repayment of a loan, see section 8007(e) of Pub. L. 109-171, set out as a note under section 1078 of this title.

CONSTRUCTION OF 1991 AMENDMENT

Section 2(d)(2)(A) of Pub. L. 102-26 provided that: “Section 3005 of the Omnibus Reconciliation Act of 1990 [Pub. L. 101-508, amending this section and section 1091 of this title and enacting provisions set out as a note above] is repealed. Sections 484(d) and 481(b) of the Act [20 U.S.C. 1091(d), 1088(b)] shall be applied as if such section 3005 had not been enacted.”

NEED-BASED AID

Section 1544 of Pub. L. 102-325 authorized institutions of higher education to voluntarily agree with other such institutions to award financial aid not awarded under this chapter to students attending such institutions only on basis of demonstrated financial need for such aid, and to discuss and adopt principles of professional judgment for determining student financial need for such aid, with exceptions for cases pending on July 23, 1992, and for discussions or agreements on prospective financial aid awards to specific common applicants, and provided that such authorization was to expire on Sept. 30, 1994, prior to repeal by Pub. L. 103-382,

title V, § 568(e)(2), Oct. 20, 1994, 108 Stat. 4061. See section 568(a)–(d) of Pub. L. 103–382, set out as a note under section 1 of Title 15, Commerce and Trade.

§ 1088a. Clock and credit hour treatment of diploma nursing schools

Notwithstanding any other provision of this chapter and part C of subchapter I of chapter 34 of title 42, any regulations promulgated by the Secretary concerning the relationship between clock hours and semester, trimester, or quarter hours in calculating student grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, shall not apply to a public or private nonprofit hospital-based school of nursing that awards a diploma at the completion of the school's program of education.

(Pub. L. 89–329, title IV, § 481A, as added Pub. L. 103–382, title III, § 360(a), Oct. 20, 1994, 108 Stat. 3969.)

PRIOR PROVISIONS

Prior sections 1088a to 1088g were omitted in the general amendment of this part by Pub. L. 96–374.

Section 1088a, Pub. L. 89–329, title IV, § 492, formerly § 462, as added Pub. L. 90–575, title I, § 151, Oct. 16, 1968, 82 Stat. 1032; renumbered § 492, Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 272, related to the eligibility of residents of the Trust Territory of the Pacific Islands. See section 1091(b) of this title.

Section 1088b, Pub. L. 89–329, title IV, § 493, formerly § 463, as added Pub. L. 90–575, title I, § 152, Oct. 16, 1968, 82 Stat. 1033; renumbered § 493, Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 272; amended Pub. L. 94–482, title I, § 131(a), Oct. 12, 1976, 90 Stat. 2147; Pub. L. 95–43, § 1(a)(40), June 15, 1977, 91 Stat. 217, related to administration expenses. See section 1096 of this title.

Section 1088b–1, Pub. L. 89–329, title IV, § 493A, as added Pub. L. 94–482, title I, § 131(b), Oct. 12, 1976, 90 Stat. 2148, related to institutional and financial assistance information for students. See section 1092 of this title.

Section 1088b–2, Pub. L. 89–329, title IV, § 493B, as added Pub. L. 94–482, title I, § 131(b), Oct. 12, 1976, 90 Stat. 2149, related to student aid information services.

Section 1088b–3, Pub. L. 89–329, title IV, § 493C, as added Pub. L. 94–482, title I, § 131(b), Oct. 12, 1976, 90 Stat. 2149, related to the student financial assistance training program.

Section 1088c, Pub. L. 89–329, title IV, § 494, formerly § 464, as added Pub. L. 90–575, title I, § 152, Oct. 16, 1968, 82 Stat. 1033; renumbered § 494 and amended Pub. L. 92–318, title I, §§ 137(b), 138(a), June 23, 1972, 86 Stat. 272, 280, related to maintenance of effort requirement.

Section 1088d, Pub. L. 89–329, title IV, § 495, as added Pub. L. 92–318, title I, § 139, June 23, 1972, 86 Stat. 280; amended S. Res. 4, Feb. 4, 1977; S. Res. 30, Mar. 7, 1979, related to requirement that copies of rules, regulations, instructions, and application forms be supplied to Congressional committees. See section 1090(b) of this title.

Section 1088e, Pub. L. 89–329, title IV, § 496, as added Pub. L. 92–318, title I, § 139A(a), June 23, 1972, 86 Stat. 281, related to transfer of funds between programs. See section 1095 of this title.

Section 1088f, Pub. L. 89–329, title IV, § 497, as added Pub. L. 92–318, title I, § 139B(a), June 23, 1972, 86 Stat. 281; amended Pub. L. 94–482, title I, § 132, Oct. 12, 1976, 90 Stat. 2150; Pub. L. 95–566, § 7, Nov. 1, 1978, 92 Stat. 2404, related to eligibility for student assistance. See section 1091 of this title.

Section 1088f–1, Pub. L. 89–329, title IV, § 497A, as added Pub. L. 94–482, title I, § 133(a), Oct. 12, 1976, 90 Stat. 2150; amended Pub. L. 95–43, § 1(a)(41), June 15, 1977, 91 Stat. 217; Pub. L. 95–561, title XII, § 1231(b), Nov. 1, 1978, 92 Stat. 2346, related to fiscal eligibility of institutions.

Section 1088g, Pub. L. 89–329, title IV, § 498, as added Pub. L. 92–318, title I, § 139C(a), June 23, 1972, 86 Stat. 282, related to requirement of an affidavit of educational purpose.

EFFECTIVE DATE

Section 360(b) of Pub. L. 103–382 provided that: “Subsection (a) [enacting this section] and the amendment made by subsection (a) shall take effect on July 1, 1994.”

§ 1089. Master calendar

(a) Secretary required to comply with schedule

To assure adequate notification and timely delivery of student aid funds under this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary shall adhere to the following calendar dates in the year preceding the award year:

(1) Development and distribution of Federal and multiple data entry forms—

(A) by February 1: first meeting of the technical committee on forms design of the Department;

(B) by March 1: proposed modifications, updates, and notices pursuant to sections 1087rr and 1090(a)(5) of this title published in the Federal Register;

(C) by June 1: final modifications, updates, and notices pursuant to sections 1087rr and 1090(a)(5) of this title published in the Federal Register;

(D) by August 15: application for Federal student assistance and multiple data entry data elements and instructions approved;

(E) by August 30: final approved forms delivered to servicers and printers;

(F) by October 1: Federal and multiple data entry forms and instructions printed; and

(G) by November 1: Federal and multiple data entry forms, instructions, and training materials distributed.

(2) Allocations of campus-based and Pell Grant funds—

(A) by August 1: distribution of institutional application for campus-based funds (FISAP) to institutions;

(B) by October 1: final date for submission of FISAP by institutions to the Department;

(C) by November 15: edited FISAP and computer printout received by institutions;

(D) by December 1: appeals procedures received by institutions;

(E) by December 15: edits returned by institutions to the Department;

(F) by February 1: tentative award levels received by institutions and final Pell Grant payment schedule;

(G) by February 15: closing date for receipt of institutional appeals by the Department;

(H) by March 1: appeals process completed;

(I) by April 1: final award notifications sent to institutions; and

(J) by June 1: Pell Grant authorization levels sent to institutions.

(3) The Secretary shall, to the extent practicable, notify eligible institutions, guaranty agencies, lenders, interested software providers, and, upon request, other interested par-

ties, by December 1 prior to the start of an award year of minimal hardware and software requirements necessary to administer programs under this subchapter and part C of subchapter I of chapter 34 of title 42.

(4) The Secretary shall attempt to conduct training activities for financial aid administrators and others in an expeditious and timely manner prior to the start of an award year in order to ensure that all participants are informed of all administrative requirements.

(b) Timing for reallocations

With respect to any funds reallocated under section 1070b-3(d) of this title, section 2752(d) of title 42, or section 1087bb(i) of this title, the Secretary shall reallocate such funds at any time during the course of the year that will best meet the purpose of the programs under subpart 3 of part A of this subchapter, part C of subchapter I of chapter 34 of title 42, and part D of this subchapter, respectively. However, such reallocation shall occur at least once each year, not later than September 30 of that year.

(c) Delay of effective date of late publications

(1) Except as provided in paragraph (2), any regulatory changes initiated by the Secretary affecting the programs under this subchapter and part C of subchapter I of chapter 34 of title 42 that have not been published in final form by November 1 prior to the start of the award year shall not become effective until the beginning of the second award year after such November 1 date.

(2)(A) The Secretary may designate any regulatory provision that affects the programs under this subchapter and part C of subchapter I of chapter 34 of title 42 and is published in final form after November 1 as one that an entity subject to the provision may, in the entity's discretion, choose to implement prior to the effective date described in paragraph (1). The Secretary may specify in the designation when, and under what conditions, an entity may implement the provision prior to that effective date. The Secretary shall publish any designation under this subparagraph in the Federal Register.

(B) If an entity chooses to implement a regulatory provision prior to the effective date described in paragraph (1), as permitted by subparagraph (A), the provision shall be effective with respect to that entity in accordance with the terms of the Secretary's designation.

(d) Notice to Congress

The Secretary shall notify the authorizing committees when a deadline included in the calendar described in subsection (a) of this section is not met. Nothing in this section shall be interpreted to penalize institutions or deny them the specified times allotted to enable them to return information to the Secretary based on the failure of the Secretary to adhere to the dates specified in this section.

(e) Compliance calendar

Prior to the beginning of each award year, the Secretary shall provide to institutions of higher education a list of all the reports and disclosures required under this chapter and part C of subchapter I of chapter 34 of title 42. The list shall include—

(1) the date each report or disclosure is required to be completed and to be submitted, made available, or disseminated;

(2) the required recipients of each report or disclosure;

(3) any required method for transmittal or dissemination of each report or disclosure;

(4) a description of the content of each report or disclosure sufficient to allow the institution to identify the appropriate individuals to be assigned the responsibility for such report or disclosure;

(5) references to the statutory authority, applicable regulations, and current guidance issued by the Secretary regarding each report or disclosure; and

(6) any other information which is pertinent to the content or distribution of the report or disclosure.

(Pub. L. 89-329, title IV, § 482, as added Pub. L. 99-498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1477; amended Pub. L. 100-50, § 15(2), June 3, 1987, 101 Stat. 355; Pub. L. 102-325, title IV, § 482, July 23, 1992, 106 Stat. 612; Pub. L. 103-208, § 2(h)(7), Dec. 20, 1993, 107 Stat. 2476; Pub. L. 104-66, title I, § 1042(b), Dec. 21, 1995, 109 Stat. 715; Pub. L. 105-244, title IV, § 481, Oct. 7, 1998, 112 Stat. 1732; Pub. L. 110-315, title I, § 103(b)(9), title IV, § 482(a), Aug. 14, 2008, 122 Stat. 3089, 3271; Pub. L. 111-39, title IV, § 407(b)(2), July 1, 2009, 123 Stat. 1950.)

PRIOR PROVISIONS

A prior section 1089, Pub. L. 89-329, title IV, § 482, as added Pub. L. 96-374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1445; amended Pub. L. 97-35, title V, § 533(a)(1), (2), (b), Aug. 13, 1981, 95 Stat. 453; Pub. L. 99-272, title XVI, § 16031, Apr. 7, 1986, 100 Stat. 354, related to analysis of student's need for financial assistance, prior to the general revision of this part by Pub. L. 99-498.

Another prior section 1089, Pub. L. 89-329, title IV, § 499, formerly § 469, as added Pub. L. 90-575, title I, § 151, Oct. 16, 1968, 82 Stat. 1032; amended Pub. L. 91-230, title IV, § 401(h)(4), Apr. 13, 1970, 84 Stat. 174; renumbered Pub. L. 92-318, title I, § 137(b), June 23, 1972, 86 Stat. 272, related to the Advisory Council on Financial Aid to Students, prior to the general revision of this part by Pub. L. 96-374.

AMENDMENTS

2009—Subsec. (b). Pub. L. 111-39 substituted “section 1070b-3(d) of this title, section 2752(d) of title 42, or section 1087bb(i) of this title” for “section 1070b-3(e) of this title, section 2752(e) of title 42, or section 1087bb(j) of this title”.

2008—Subsec. (a)(1)(B), (C). Pub. L. 110-315, § 482(a)(1), added subpars. (B) and (C) and struck out former subpars. (B) and (C) which read as follows:

“(B) by March 1: proposed modifications and updates pursuant to section 1087rr of this title published in the Federal Register;

“(C) by June 1: final modifications and updates pursuant to section 1087rr of this title published in the Federal Register;”.

Subsec. (d). Pub. L. 110-315, § 103(b)(9), substituted “authorizing committees” for “Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives”.

Subsec. (e). Pub. L. 110-315, § 482(a)(2), added subsec. (e).

1998—Subsec. (a)(3), (4). Pub. L. 105-244, § 481(a), added pars. (3) and (4).

Subsec. (c). Pub. L. 105-244, § 481(b), amended heading and text of subsec. (c) generally. Prior to amendment,

text read as follows: “Any regulatory changes initiated by the Secretary affecting the programs pursuant to this subchapter and part C of subchapter I of chapter 34 of title 42 that have not been published in final form by December 1 prior to the start of the award year shall not become effective until the beginning of the second award year after such December 1 date. For award year 1994-95, this subsection shall not require a delay in the effectiveness of regulatory changes affecting this part and parts B and G of this subchapter that are published in final form by May 1, 1994.”

1995—Subsec. (d). Pub. L. 104-66, in first sentence substituted “a deadline included in the calendar described in subsection (a) of this section is not met” for “the items specified in the calendar have been completed and provide all relevant forms, rules, and instructions with such notice” and after first sentence struck out “When a deadline included in the calendar is not met, the Secretary, within 7 days, shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a written report, including proper documentation, as to why the deadline has not adhered to and a detailed plan for ensuring that subsequent dates are met.”

1993—Subsec. (c). Pub. L. 103-208 inserted at end “For award year 1994-95, this subsection shall not require a delay in the effectiveness of regulatory changes affecting this part and parts B and G of this subchapter that are published in final form by May 1, 1994.”

1992—Subsec. (a)(1)(B), (C). Pub. L. 102-325, § 482(b)(1), substituted “section 1087rr” for “sections 1070a-5 and 1087rr”.

Subsec. (b). Pub. L. 102-325, § 482(b)(2), substituted “subpart 3” for “subpart 2”.

Subsec. (c). Pub. L. 102-325, § 482(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “Any additional regulatory changes initiated by the Secretary affecting the general administration of the programs pursuant to this subchapter and part C of subchapter I of chapter 34 of title 42 that have not been published in final form by December 1 prior to the start of the award year shall not become effective until the beginning of the second award year after the December 1 date.”

1987—Subsec. (b). Pub. L. 100-50 inserted reference to section 1087bb(j) of this title and part D of this subchapter.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-315, title IV, § 482(b), Aug. 14, 2008, 122 Stat. 3272, provided that: “The amendment made by subsection (a)(1) [amending this section] shall take effect on July 1, 2010.”

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

INAPPLICABILITY OF MASTER CALENDAR AND NEGOTIATED RULEMAKING REQUIREMENTS

Pub. L. 112-74, div. F, title III, § 309(h), Dec. 23, 2011, 125 Stat. 1103, provided that: “Sections 482(c) and 492 of the HEA (20 U.S.C. 1089(c), 1098a) shall not apply to the amendments made by this section [amending sections 1001, 1070a, 1078, 1087-1, 1087ss, and 1091 of this title and enacting provisions set out as notes under sections 1001, 1078, and 1091 of this title], or to any regulations promulgated under those amendments.”

Pub. L. 112-25, title V, § 504, Aug. 2, 2011, 125 Stat. 267, provided that: “Sections 482(c) and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089(c), 1098a) shall not apply to the amendments made by this title [amending sections 1070a and 1087e of this title], or to any regulations promulgated under those amendments.”

Pub. L. 112-10, div. B, title VIII, § 1860(c), Apr. 15, 2011, 125 Stat. 170, provided that: “Sections 482(c) and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089(c), 1098a) shall not apply to the amendments made by subsection (a)(2) [amending section 1070a of this title], or to any regulations promulgated under those amendments.”

Pub. L. 111-39, title IV, § 409, July 1, 2009, 123 Stat. 1953, provided that: “Sections 482 and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089, 1098a) shall not apply to the amendments made by this title [see Tables for classification], or to any regulations promulgated under those amendments.”

Pub. L. 110-315, title IV, § 402(b), Aug. 14, 2008, 122 Stat. 3191, provided that: “Sections 482 and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089, 1098a) shall not apply to the amendments made by subsection (a) [amending section 1070a-1 of this title], or to any regulations promulgated under those amendments.”

Pub. L. 110-227, § 11, May 7, 2008, 122 Stat. 752, as amended by Pub. L. 110-315, title IV, § 402(c)(1), Aug. 14, 2008, 122 Stat. 3191, provided that: “Sections 482 and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089, 1098a) shall not apply to amendments made by this Act [see Tables for classification], or to any regulations promulgated under such amendments.”

[Pub. L. 110-315, title IV, § 402(c)(2), Aug. 14, 2008, 122 Stat. 3191, provided that: “The amendment made by paragraph (1) [amending section 11 of Pub. L. 110-227, set out above] shall take effect as if enacted as part of the Ensuring Continued Access to Student Loans Act of 2008 [Pub. L. 110-227].”]

ESTABLISHMENT OF SEPARATE SYSTEMS OF NEED ANALYSIS FOR ACADEMIC YEARS 1983-1984 THROUGH 1987-1988

Pub. L. 97-301, § 4, Oct. 13, 1982, 96 Stat. 1400, as amended by Pub. L. 98-79, § 4(a), Aug. 15, 1983, 97 Stat. 480; Pub. L. 98-511, title VII, § 707(3), Oct. 19, 1984, 98 Stat. 2407; Pub. L. 99-498, title IV, § 408(a)(1), Oct. 17, 1986, 100 Stat. 1495, which required Secretary of Education to establish or approve separate systems of need analysis for the academic years 1983-1984, 1984-1985, 1985-1986, 1986-1987, and 1987-1988 for the programs authorized under subpart 2 [now 3] of part A [20 U.S.C. 1070b et seq.], part C [42 U.S.C. 2751 et seq.], and part E [20 U.S.C. 1087aa et seq.] of title IV of the Higher Education Act of 1965, was repealed by Pub. L. 99-498, title IV, § 408(b), Oct. 17, 1986, 100 Stat. 1495, eff. with respect to any academic year beginning on or after July 1, 1988.

DETERMINATION OF INDEPENDENT STUDENT STATUS FOR ACADEMIC YEARS 1982-1983 THROUGH 1987-1988

Pub. L. 97-301, § 6, Oct. 13, 1982, 96 Stat. 1400, as amended by Pub. L. 98-79, § 4(a), Aug. 15, 1983, 97 Stat. 481; Pub. L. 98-516, title VII, § 707(3), Oct. 19, 1984, 98 Stat. 2407; Pub. L. 99-498, title IV, § 408(a)(1), Oct. 17, 1986, 100 Stat. 1495, which provided that notwithstanding any rule or regulation, the criteria for the determination of independent student status, prescribed under subsec. (c)(2) of this section, in effect for academic year 1982-1983, was to be the criteria for such determinations for each of the academic years 1983-1984,

1984–1985, 1985–1986, 1986–1987, and 1987–1988, was repealed by Pub. L. 99–498, title IV, § 408(b), Oct. 17, 1986, 100 Stat. 1495, eff. with respect to any academic year beginning on or after July 1, 1988.

§ 1090. Forms and regulations

(a) Common financial aid form development and processing

(1) In general

The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall produce, distribute, and process free of charge common financial reporting forms as described in this subsection to be used for application and reapplication to determine the need and eligibility of a student for financial assistance under parts A through D of this subchapter and part C of subchapter I of chapter 34 of title 42 (other than under subpart 4 of part A of this subchapter). The forms shall be made available to applicants in both paper and electronic formats and shall be referred to as the “Free Application for Federal Student Aid” or the “FAFSA”. The Secretary shall work to make the FAFSA consumer-friendly and to make questions on the FAFSA easy for students and families to read and understand, and shall ensure that the FAFSA is available in formats accessible to individuals with disabilities.

(2) Paper format

(A) In general

The Secretary shall develop, make available, and process—

- (i) a paper version of EZ FAFSA, as described in subparagraph (B); and
- (ii) a paper version of the other forms described in this subsection, in accordance with subparagraph (C), for any applicant who does not meet the requirements of or does not wish to use the process described in subparagraph (B).

(B) EZ FAFSA

(i) In general

The Secretary shall develop and use, after appropriate field testing, a simplified paper form, to be known as the EZ FAFSA, to be used for applicants meeting the requirements of subsection (b) or (c) of section 1087ss of this title.

(ii) Reduced data requirements

The EZ FAFSA shall permit an applicant to submit, for financial assistance purposes, only the data elements required to make a determination of whether the applicant meets the requirements under subsection (b) or (c) of section 1087ss of this title.

(iii) State data

The Secretary shall include on the EZ FAFSA such data items as may be necessary to award State financial assistance, as provided under paragraph (5), except that the Secretary shall not include a State's data if that State does not permit the State's resident applicants to use the EZ FAFSA for State assistance.

(iv) Free availability and processing

The provisions of paragraph (6) shall apply to the EZ FAFSA, and the data collected by means of the EZ FAFSA shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (10).

(C) Promoting the use of electronic FAFSA

(i) In general

The Secretary shall make all efforts to encourage all applicants to utilize the electronic version of the forms described in paragraph (3).

(ii) Maintenance of the FAFSA in a printable electronic file

The Secretary shall maintain a version of the paper forms described in subparagraphs (A) and (B) in a printable electronic file that is easily portable, accessible, and downloadable to students on the same website used to provide students with the electronic version of the forms described in paragraph (3).

(iii) Requests for printed copy

The Secretary shall provide a printed copy of the full paper version of FAFSA upon request.

(iv) Reporting requirement

The Secretary shall maintain data, and periodically report to Congress, on the impact of the digital divide on students completing applications for aid under this subchapter and part C of subchapter I of chapter 34 of title 42. The Secretary shall report on the steps taken to eliminate the digital divide and reduce production of the paper form described in subparagraph (A). The Secretary's report shall specifically address the impact of the digital divide on the following student populations:

- (I) Independent students.
- (II) Traditionally underrepresented students.
- (III) Dependent students.

(3) Electronic format

(A) In general

The Secretary shall produce, distribute, and process forms in electronic format to meet the requirements of paragraph (1). The Secretary shall develop an electronic version of the forms for applicants who do not meet the requirements of subsection (b) or (c) of section 1087ss of this title.

(B) Simplified applications: FAFSA on the web

(i) In general

The Secretary shall develop and use a simplified electronic version of the form to be used by applicants meeting the requirements under subsection (b) or (c) of section 1087ss of this title.

(ii) Reduced data requirements

The simplified electronic version of the forms shall permit an applicant to submit, for financial assistance purposes, only the

data elements required to make a determination of whether the applicant meets the requirements under subsection (b) or (c) of section 1087ss of this title.

(iii) Use of forms

Nothing in this subsection shall be construed to prohibit the use of the forms developed by the Secretary pursuant to this paragraph by an eligible institution, eligible lender, guaranty agency, State grant agency, private computer software provider, a consortium thereof, or such other entities as the Secretary may designate.

(C) State data

The Secretary shall include on the electronic version of the forms such items as may be necessary to determine eligibility for State financial assistance, as provided under paragraph (5), except that the Secretary shall not require an applicant to enter data pursuant to this subparagraph that are required by any State other than the applicant's State of residence.

(D) Availability and processing

The data collected by means of the simplified electronic version of the forms shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (10).

(E) Privacy

The Secretary shall ensure that data collection under this paragraph complies with section 552a of title 5 and that any entity using the electronic version of the forms developed by the Secretary pursuant to this paragraph shall maintain reasonable and appropriate administrative, technical, and physical safeguards to ensure the integrity and confidentiality of the information, and to protect against security threats, or unauthorized uses or disclosures of the information provided on the electronic version of the forms. Data collected by such electronic version of the forms shall be used only for the application, award, and administration of aid awarded under this subchapter and part C of subchapter I of chapter 34 of title 42, State aid, or aid awarded by eligible institutions or such entities as the Secretary may designate. No data collected by such electronic version of the forms shall be used for making final aid awards under this subchapter and part C of subchapter I of chapter 34 of title 42 until such data have been processed by the Secretary or a contractor or designee of the Secretary, except as may be permitted under this subchapter and part C of subchapter I of chapter 34 of title 42.

(F) Signature

Notwithstanding any other provision of this chapter and part C of subchapter I of chapter 34 of title 42, the Secretary may continue to permit an electronic version of the form under this paragraph to be submitted without a signature, if a signature is subsequently submitted by the applicant or if the applicant uses a personal identification number provided by the Secretary under subparagraph (G).

(G) Personal identification numbers authorized

The Secretary may continue to assign to an applicant a personal identification number—

(i) to enable the applicant to use such number as a signature for purposes of completing an electronic version of a form developed under this paragraph; and

(ii) for any purpose determined by the Secretary to enable the Secretary to carry out this subchapter and part C of subchapter I of chapter 34 of title 42.

(H) Personal identification number improvement

The Secretary shall continue to work with the Commissioner of Social Security to minimize the time required for an applicant to obtain a personal identification number when applying for aid under this subchapter and part C of subchapter I of chapter 34 of title 42 through an electronic version of a form developed under this paragraph.

(4) Streamlining

(A) Streamlined reapplication process

(i) In general

The Secretary shall continue to streamline reapplication forms and processes for an applicant who applies for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 in the next succeeding academic year subsequent to an academic year for which such applicant applied for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(ii) Updating of data elements

The Secretary shall determine, in cooperation with States, institutions of higher education, agencies, and organizations involved in student financial assistance, the data elements that may be transferred from the previous academic year's application and those data elements that shall be updated.

(iii) Reduced data authorized

Nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be construed as limiting the authority of the Secretary to reduce the number of data elements required of reapplicants.

(iv) Zero family contribution

Applicants determined to have a zero family contribution pursuant to section 1087ss(c) of this title shall not be required to provide any financial data in a reapplication form, except data that are necessary to determine eligibility under such section.

(B) Reduction of data elements

(i) Reduction encouraged

Of the number of data elements on the FAFSA used for the 2009–2010 award year, the Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance

and consistent with efforts under subsection (c), shall continue to reduce the number of such data elements required to be entered by all applicants, with the goal of reducing such number by 50 percent.

(ii) Report

The Secretary shall submit a report on the process of this reduction to each of the authorizing committees by June 30, 2011.

(5) State requirements

(A) In general

Except as provided in paragraphs (2)(B)(iii), (3)(B), and (4)(A)(ii), the Secretary shall include on the forms developed under this subsection, such State-specific data items as the Secretary determines are necessary to meet State requirements for need-based State aid. Such items shall be selected in consultation with State agencies in order to assist in the awarding of State financial assistance in accordance with the terms of this subsection. The number of such data items shall not be less than the number included on the form for the 2008–2009 award year unless a State notifies the Secretary that the State no longer requires those data items for the distribution of State need-based aid.

(B) Annual review

The Secretary shall conduct an annual review to determine—

- (i) which data items each State requires to award need-based State aid; and
- (ii) if the State will permit an applicant to file a form described in paragraph (2)(B) or (3)(B).

(C) Federal register notice

Beginning with the forms developed under paragraphs (2)(B) and (3)(B) for the award year 2010–2011, the Secretary shall publish on an annual basis a notice in the Federal Register requiring State agencies to inform the Secretary—

- (i) if the State agency is unable to permit applicants to utilize the simplified forms described in paragraphs (2)(B) and (3)(B); and
- (ii) of the State-specific nonfinancial data that the State agency requires for delivery of State need-based financial aid.

(D) Use of simplified forms encouraged

The Secretary shall encourage States to take such steps as are necessary to encourage the use of simplified forms under this subsection, including those forms described in paragraphs (2)(B) and (3)(B), for applicants who meet the requirements of subsection (b) or (c) of section 1087ss of this title.

(E) Consequences if State does not accept simplified forms

If a State does not permit an applicant to file a form described in paragraph (2)(B) or (3)(B) for purposes of determining eligibility for State need-based financial aid, the Secretary may determine that State-specific questions for such State will not be included on a form described in paragraph (2)(B) or

(3)(B). If the Secretary makes such determination, the Secretary shall advise the State of the Secretary's determination.

(F) Lack of State response to request for information

If a State does not respond to the Secretary's request for information under subparagraph (B), the Secretary shall—

- (i) permit residents of that State to complete simplified forms under paragraphs (2)(B) and (3)(B); and
- (ii) not require any resident of such State to complete any data items previously required by that State under this section.

(G) Restriction

The Secretary shall, to the extent practicable, not require applicants to complete any financial or nonfinancial data items that are not required—

- (i) by the applicant's State; or
- (ii) by the Secretary.

(6) Charges to students and parents for use of forms prohibited

The need and eligibility of a student for financial assistance under parts A through D of this subchapter and part C of subchapter I of chapter 34 of title 42 (other than under subpart 4 of part A of this subchapter) may be determined only by using a form developed by the Secretary under this subsection. Such forms shall be produced, distributed, and processed by the Secretary, and no parent or student shall be charged a fee by the Secretary, a contractor, a third-party servicer or private software provider, or any other public or private entity for the collection, processing, or delivery of financial aid through the use of such forms. No data collected on a form for which a fee is charged shall be used to complete the form prescribed under this section, except that a Federal or State income tax form prepared by a paid income tax preparer or preparer service for the primary purpose of filing a Federal or State income tax return may be used to complete the form prescribed under this section.

(7) Restrictions on use of PIN

No person, commercial entity, or other entity may request, obtain, or utilize an applicant's personal identification number assigned under paragraph (3)(G) for purposes of submitting a form developed under this subsection on an applicant's behalf.

(8) Application processing cycle

The Secretary shall enable students to submit forms developed under this subsection and initiate the processing of such forms under this subsection, as early as practicable prior to January 1 of the student's planned year of enrollment.

(9) Early estimates

The Secretary shall continue to—

- (A) permit applicants to enter data in such forms as described in this subsection in the years prior to enrollment in order to obtain a non-binding estimate of the applicant's

family contribution (as defined in section 1087mm of this title);

(B) permit applicants to update information submitted on forms described in this subsection, without needing to re-enter previously submitted information;

(C) develop a means to inform applicants, in the years prior to enrollment, of student aid options for individuals in similar financial situations;

(D) develop a means to provide a clear and conspicuous notice that the applicant's expected family contribution is subject to change and may not reflect the final expected family contribution used to determine Federal student financial aid award amounts under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(E) consult with representatives of States, institutions of higher education, and other individuals with experience or expertise in student financial assistance application processes in making updates to forms used to provide early estimates under this paragraph.

(10) Distribution of data

Institutions of higher education, guaranty agencies, and States shall receive, without charge, the data collected by the Secretary using a form developed under this subsection for the purposes of processing loan applications and determining need and eligibility for institutional and State financial aid awards. Entities designated by institutions of higher education, guaranty agencies, or States to receive such data shall be subject to all the requirements of this section, unless such requirements are waived by the Secretary.

(11) Third party servicers and private software providers

To the extent practicable and in a timely manner, the Secretary shall provide, to private organizations and consortia that develop software used by institutions of higher education for the administration of funds under this subchapter and part C of subchapter I of chapter 34 of title 42, all the necessary specifications that the organizations and consortia must meet for the software the organizations and consortia develop, produce, and distribute (including any diskette, modem, or network communications) to be so used. The specifications shall contain record layouts for required data. The Secretary shall develop in advance of each processing cycle an annual schedule for providing such specifications. The Secretary, to the extent practicable, shall use multiple means of providing such specifications, including conferences and other meetings, outreach, and technical support mechanisms (such as training and printed reference materials). The Secretary shall, from time to time, solicit from such organizations and consortia means of improving the support provided by the Secretary.

(12) Parent's social security number and birth date

The Secretary is authorized to include space on the forms developed under this subsection

for the social security number and birth date of parents of dependent students seeking financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(b) Information to committees of Congress

Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this subchapter and part C of subchapter I of chapter 34 of title 42 shall be provided to the authorizing committees at least 45 days prior to their effective date.

(c) Toll-free information

The Secretary shall contract for, or establish, and publicize a toll-free telephone service to provide timely and accurate information to the general public. The information provided shall include specific instructions on completing the application form for assistance under this subchapter and part C of subchapter I of chapter 34 of title 42. Such service shall also include a service accessible by telecommunications devices for the deaf (TDD's) and shall, in addition to the services provided for in the previous sentence, refer such students to the national clearinghouse on postsecondary education or other appropriate provider of technical assistance and information on postsecondary educational services for individuals with disabilities, including the National Technical Assistance Center under section 1140q of this title. The Secretary shall continue to implement, to the extent practicable, a toll-free telephone based system to permit applicants who meet the requirements of subsection (b) or (c) of section 1087ss of this title to submit an application over such system.

(d) Assistance in preparation of financial aid application

(1) Preparation authorized

Notwithstanding any provision of this chapter, an applicant may use a preparer for consultative or preparation services for the completion of a form developed under subsection (a) if the preparer satisfies the requirements of this subsection.

(2) Preparer identification required

If an applicant uses a preparer for consultative or preparation services for the completion of a form developed under subsection (a), and for which a fee is charged, the preparer shall—

(A) include, at the time the form is submitted to the Department, the name, address or employer's address, social security number or employer identification number, and organizational affiliation of the preparer on the applicant's form; and

(B) be subject to the same penalties as an applicant for purposely giving false or misleading information in the application.

(3) Additional requirements

A preparer that provides consultative or preparation services pursuant to this subsection shall—

(A) clearly inform each individual upon initial contact, including contact through the Internet or by telephone, that the FAFSA and EZ FAFSA are free forms that

may be completed without professional assistance via paper or electronic version of the forms that are provided by the Secretary;

(B) include in any advertising clear and conspicuous information that the FAFSA and EZ FAFSA are free forms that may be completed without professional assistance via paper or electronic version of the forms that are provided by the Secretary;

(C) if advertising or providing any information on a website, or if providing services through a website, include on the website a link to the website that provides the electronic version of the forms developed under subsection (a); and

(D) not produce, use, or disseminate any other form for the purpose of applying for Federal student financial aid other than the form developed by the Secretary under subsection (a).

(4) Special rule

Nothing in this chapter and part C of subchapter I of chapter 34 of title 42 shall be construed to limit preparers of the forms required under this subchapter and part C of subchapter I of chapter 34 of title 42 that meet the requirements of this subsection from collecting source information from a student or parent, including Internal Revenue Service tax forms, in providing consultative and preparation services in completing the forms.

(e) Early application and estimated award demonstration program

(1) Purpose and objectives

The purpose of the demonstration program under this subsection is to measure the benefits, in terms of student aspirations and plans to attend an institution of higher education, and any adverse effects, in terms of program costs, integrity, distribution, and delivery of aid under this subchapter and part C of subchapter I of chapter 34 of title 42, of implementing an early application system for all dependent students that allows dependent students to apply for financial aid using information from two years prior to the year of enrollment. Additional objectives associated with implementation of the demonstration program are the following:

(A) To measure the feasibility of enabling dependent students to apply for Federal, State, and institutional financial aid in their junior year of secondary school, using information from two years prior to the year of enrollment, by completing any of the forms under this subsection.

(B) To identify whether receiving final financial aid award estimates not later than the fall of the senior year of secondary school provides students with additional time to compete for the limited resources available for State and institutional financial aid and positively impacts the college aspirations and plans of these students.

(C) To measure the impact of using income information from the years prior to enrollment on—

(i) eligibility for financial aid under this subchapter and part C of subchapter I of

chapter 34 of title 42 and for other State and institutional aid; and

(ii) the cost of financial aid programs under this subchapter and part C of subchapter I of chapter 34 of title 42.

(D) To effectively evaluate the benefits and adverse effects of the demonstration program on program costs, integrity, distribution, and delivery of financial aid.

(2) Program authorized

Not later than two years after August 14, 2008, the Secretary shall implement an early application demonstration program enabling dependent students who wish to participate in the program—

(A) to complete an application under this subsection during the academic year that is two years prior to the year such students plan to enroll in an institution of higher education; and

(B) based on the application described in subparagraph (A), to obtain, not later than one year prior to the year of the students' planned enrollment, information on eligibility for Federal Pell Grants, Federal student loans under this subchapter and part C of subchapter I of chapter 34 of title 42, and State and institutional financial aid for the student's first year of enrollment in the institution of higher education.

(3) Early application and estimated award

For all dependent students selected for participation in the demonstration program who submit a completed FAFSA, or, as appropriate, an EZ FAFSA, two years prior to the year such students plan to enroll in an institution of higher education, the Secretary shall, not later than one year prior to the year of such planned enrollment—

(A) provide each student who completes an early application with an estimated determination of such student's—

(i) expected family contribution for the first year of the student's enrollment in an institution of higher education; and

(ii) Federal Pell Grant award for the first such year, based on the Federal Pell Grant amount, determined under section 1070a(b)(2)(A) of this title, for which a student is eligible at the time of application; and

(B) remind the students of the need to update the students' information during the calendar year of enrollment using the expedited reapplication process provided for in subsection (a)(4)(A).

(4) Participants

The Secretary shall include as participants in the demonstration program—

(A) States selected through the application process described in paragraph (5);

(B) institutions of higher education within the selected States that are interested in participating in the demonstration program, and that can make estimates or commitments of institutional student financial aid, as appropriate, to students the year before the students' planned enrollment date; and

(C) secondary schools within the selected States that are interested in participating in the demonstration program, and that can commit resources to—

- (i) advertising the availability of the program;
- (ii) identifying students who might be interested in participating in the program;
- (iii) encouraging such students to apply;
- (iv) participating in the evaluation of the program.

(5) Applications

Each State that is interested in participating in the demonstration program shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require. The application shall include—

(A) information on the amount of the State's need-based student financial assistance available, and the eligibility criteria for receiving such assistance;

(B) a commitment to make, not later than the year before the dependent students participating in the demonstration program plan to enroll in an institution of higher education, an estimate of the award of State financial aid to such dependent students;

(C) a plan for recruiting institutions of higher education and secondary schools with different demographic characteristics to participate in the program;

(D) a plan for selecting institutions of higher education and secondary schools to participate in the program that—

(i) demonstrate a commitment to encouraging students to submit a FAFSA, or, as appropriate, an EZ FAFSA, two years before the students' planned date of enrollment in an institution of higher education;

(ii) serve different populations of students;

(iii) in the case of institutions of higher education—

(I) to the extent possible, are of varying types and sectors; and

(II) commit to making, not later than the year prior to the year that dependent students participating in the demonstration program plan to enroll in the institution—

(aa) estimated institutional awards to participating dependent students; and

(bb) estimated grants or other financial aid available under this subchapter and part C of subchapter I of chapter 34 of title 42 (including supplemental grants under subpart 3 of part A of this subchapter), for all participating dependent students, along with information on State awards, as provided to the institution by the State;

(E) a commitment to participate in the evaluation conducted by the Secretary; and

(F) such other information as the Secretary may require.

(6) Special provisions

(A) Discretion of student financial aid administrators

A financial aid administrator at an institution of higher education participating in a demonstration program under this subsection may use the discretion provided under section 1087tt of this title as necessary for students participating in the demonstration program.

(B) Waivers

The Secretary is authorized to waive, for an institution of higher education participating in the demonstration program, any requirements under this subchapter and part C of subchapter I of chapter 34 of title 42, or regulations prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, that will make the demonstration program unworkable, except that the Secretary shall not waive any provisions with respect to the maximum award amounts for grants and loans under this subchapter and part C of subchapter I of chapter 34 of title 42.

(7) Outreach

The Secretary shall make appropriate efforts to notify States of the demonstration program under this subsection. Upon determination of participating States, the Secretary shall continue to make efforts to notify institutions of higher education and dependent students within participating States of the opportunity to participate in the demonstration program and of the participation requirements.

(8) Evaluation

The Secretary shall conduct a rigorous evaluation of the demonstration program to measure the program's benefits and adverse effects, as the benefits and effects relate to the purpose and objectives of the program described in paragraph (1). In conducting the evaluation, the Secretary shall—

(A) determine whether receiving financial aid estimates one year prior to the year in which the student plans to enroll in an institution of higher education, has a positive impact on the higher education aspirations and plans of such student;

(B) measure the extent to which using a student's income information from the year that is two years prior to the student's planned enrollment date had an impact on the ability of States and institutions of higher education to make financial aid awards and commitments;

(C) determine what operational changes are required to implement the program on a larger scale;

(D) identify any changes to Federal law that are necessary to implement the program on a permanent basis;

(E) identify the benefits and adverse effects of providing early estimates on program costs, program operations, program integrity, award amounts, distribution, and delivery of aid; and

(F) examine the extent to which estimated awards differ from actual awards made to students participating in the program.

(9) Consultation

The Secretary shall consult, as appropriate, with the Advisory Committee on Student Financial Assistance established under section 1098 of this title on the design, implementation, and evaluation of the demonstration program.

(f) Reduction of income and asset information to determine eligibility for student financial aid

(1) Continuation of current FAFSA simplification efforts

The Secretary shall continue to examine—

(A) how the Internal Revenue Service can provide to the Secretary income and other data needed to compute an expected family contribution for taxpayers and dependents of taxpayers, and when in the application cycle the data can be made available;

(B) whether data provided by the Internal Revenue Service can be used to—

(i) prepopulate the electronic version of the FAFSA with student and parent taxpayer data; or

(ii) generate an expected family contribution without additional action on the part of the student and taxpayer; and

(C) whether the data elements collected on the FAFSA that are needed to determine eligibility for student aid, or to administer the Federal student financial aid programs under this subchapter and part C of subchapter I of chapter 34 of title 42, but are not needed to compute an expected family contribution, such as information regarding the student's citizenship or permanent residency status, registration for selective service, or driver's license number, can be reduced without adverse effects.

(2) Report on FAFSA simplification efforts to date

Not later than 90 days after August 14, 2008, the Secretary shall provide a written report to the authorizing committees on the work the Department has done with the Secretary of the Treasury regarding—

(A) how the expected family contribution of a student can be calculated using substantially less income and asset information than was used on March 31, 2008;

(B) the extent to which the reduced income and asset information will result in a redistribution of Federal grants and subsidized loans under this subchapter and part C of subchapter I of chapter 34 of title 42, State aid, or institutional aid, or in a change in the composition of the group of recipients of such aid, and the amount of such redistribution;

(C) how the alternative approaches for calculating the expected family contribution will—

(i) rely mainly, in the case of students and parents who file income tax returns, on information available on the 1040, 1040EZ, and 1040A; and

(ii) include formulas for adjusting income or asset information to produce similar results to the existing approach with less data;

(D) how the Internal Revenue Service can provide to the Secretary of Education income and other data needed to compute an expected family contribution for taxpayers and dependents of taxpayers, and when in the application cycle the data can be made available;

(E) whether data provided by the Internal Revenue Service can be used to—

(i) prepopulate the electronic version of the FAFSA with student and parent taxpayer data; or

(ii) generate an expected family contribution without additional action on the part of the student and taxpayer;

(F) the extent to which the use of income data from two years prior to a student's planned enrollment date will change the expected family contribution computed in accordance with part E, and potential adjustments to the need analysis formula that will minimize the change; and

(G) the extent to which the data elements collected on the FAFSA on March 31, 2008, that are needed to determine eligibility for student aid or to administer the Federal student financial aid programs, but are not needed to compute an expected family contribution, such as information regarding the student's citizenship or permanent residency status, registration for selective service, or driver's license number, can be reduced without adverse effects.

(3) Study

(A) Formation of study group

Not later than 90 days after August 14, 2008, the Comptroller General shall convene a study group the membership of which shall include the Secretary of Education, the Secretary of the Treasury, the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, representatives of institutions of higher education with expertise in Federal and State financial aid assistance, State chief executive officers of higher education with a demonstrated commitment to simplifying the FAFSA, and such other individuals as the Comptroller General and the Secretary of Education may designate.

(B) Study required

The Comptroller General, in consultation with the study group convened under subparagraph (A) shall—

(i) review and build on the work of the Secretary of Education and the Secretary of the Treasury, and individuals with expertise in analysis of financial need, to assess alternative approaches for calculating the expected family contribution under the statutory need analysis formula in effect on the day before August 14, 2008, and under a new calculation that will use substantially less income and asset informa-

tion than was used for the 2008-2009 FAFSA;

(ii) conduct an additional analysis if necessary; and

(iii) make recommendations to the authorizing committees.

(C) Objectives of study

The objectives of the study required under subparagraph (B) are—

(i) to determine methods to shorten the FAFSA and make the FAFSA easier and less time-consuming to complete, thereby increasing higher education access for low-income students;

(ii) to identify changes to the statutory need analysis formula that will be necessary to reduce the amount of financial information students and families need to provide to receive a determination of eligibility for student financial aid without causing significant redistribution of Federal grants and subsidized loans under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(iii) to review State and institutional needs and uses for data collected on the FAFSA, and to determine the best means of addressing such needs in the case of modification of the FAFSA as described in clause (i), or modification of the need analysis formula as described in clause (ii).

(D) Required subjects of study

The study required under subparagraph (B) shall examine—

(i) with respect to simplification of the financial aid application process using the statutory requirements for need analysis—

(I) additional steps that can be taken to simplify the financial aid application process for students who (or, in the case of dependent students, whose parents) are not required to file a Federal income tax return for the prior taxable year;

(II) information on State use of information provided on the FAFSA, including—

(aa) whether a State uses, as of the time of the study, or can use, a student's expected family contribution based on data from two years prior to the student's planned enrollment date;

(bb) the extent to which States and institutions will accept the data provided by the Internal Revenue Service to prepopulate the electronic version of the FAFSA to determine the distribution of State and institutional student financial aid funds;

(cc) what data are used by States, as of the time of the study, to determine eligibility for State student financial aid, and whether the data are used for merit- or need-based aid;

(dd) whether State data are required by State law, State regulations, or policy directives; and

(ee) the extent to which any State-specific information requirements can be met by completion of a State application linked to the electronic version of the FAFSA; and

(III) information on institutional needs, including the extent to which institutions of higher education are already using supplemental forms to collect additional data from students and their families to determine eligibility for institutional funds; and

(ii) ways to reduce the amount of financial information students and families need to provide to receive a determination of eligibility for student financial aid, taking into account—

(I) the amount of redistribution of Federal grants and subsidized loans under this subchapter and part C of subchapter I of chapter 34 of title 42 caused by such a reduction, and the benefits to be gained by having an application process that will be easier for students and their families;

(II) students and families who do not file income tax returns;

(III) the extent to which the full array of income and asset information collected on the FAFSA, as of the time of the study, plays an important role in the awarding of need-based State financial aid, and whether the State can use an expected family contribution generated by the FAFSA, instead of income and asset information or a calculation with reduced data elements, to support determinations of eligibility for such State aid programs and, if not, what additional information will be needed or what changes to the FAFSA will be required; and

(IV) information on institutional needs, including the extent to which institutions of higher education are already using supplemental forms to collect additional data from students and their families to determine eligibility for institutional funds; and

(V) changes to this chapter and part C of subchapter I of chapter 34 of title 42 or other laws that will be required to implement a modified need analysis system.

(4) Consultation

The Secretary shall consult with the Advisory Committee on Student Financial Assistance established under section 1098 of this title as appropriate in carrying out this subsection.

(5) Reports

(A) Reports on study

The Secretary shall prepare and submit to the authorizing committees—

(i) not later than one year after August 14, 2008, an interim report on the progress of the study required under paragraph (3) that includes any preliminary recommendations by the study group established under such paragraph; and

(ii) not later than two years after August 14, 2008, a final report on the results of the study required under paragraph (3) that includes recommendations by the study group established under such paragraph.

(B) Reports on FAFSA simplification efforts

The Secretary shall report to the authorizing committees, from time to time, on the progress of the simplification efforts under this subsection.

(g) Addressing the digital divide

The Secretary shall utilize savings accrued by moving more applicants to the electronic version of the forms described in subsection (a)(3) to improve access to the electronic version of the forms described in such subsection for applicants meeting the requirements of subsection (b) or (c) of section 1087ss of this title.

(h) Adjustments

The Secretary shall disclose, on the form notifying a student of the student's expected family contribution, that the student may, on a case-by-case basis, qualify for an adjustment under section 1087tt of this title to the cost of attendance or the values of the data items required to calculate the expected contribution for the student or parent. Such disclosure shall specify—

- (1) the special circumstances under which a student or family member may qualify for such adjustment; and
- (2) additional information regarding the steps a student or family member may take in order to seek an adjustment under section 1087tt of this title.

(Pub. L. 89–329, title IV, § 483, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1478; amended Pub. L. 100–50, § 15(3)–(6), June 3, 1987, 101 Stat. 356; Pub. L. 102–325, title IV, § 483, July 23, 1992, 106 Stat. 612; Pub. L. 103–208, § 2(h)(8)–(12), Dec. 20, 1993, 107 Stat. 2476; Pub. L. 105–244, title IV, § 482, Oct. 7, 1998, 112 Stat. 1733; Pub. L. 110–315, title I, § 103(b)(10), title IV, § 483(a), Aug. 14, 2008, 122 Stat. 3090, 3272; Pub. L. 111–39, title IV, § 407(b)(3), July 1, 2009, 123 Stat. 1950; Pub. L. 111–152, title II, § 2101(b)(4), Mar. 30, 2010, 124 Stat. 1073.)

PRIOR PROVISIONS

A prior section 1090, Pub. L. 89–329, title IV, § 483, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1448, related to forms and regulations for student assistance programs, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2010—Subsec. (e)(3)(A)(ii). Pub. L. 111–152 substituted “based on the Federal Pell Grant amount, determined under section 1070a(b)(2)(A) of this title, for which a student is eligible at the time of application” for “based on the maximum Federal Pell Grant award at the time of application”.

2009—Subsec. (a)(3)(C). Pub. L. 111–39, § 407(b)(3)(A), inserted “that” after “except”.

Subsec. (e)(8)(A). Pub. L. 111–39, § 407(b)(3)(B), substituted “determine” for “identify”.

2008—Subsec. (a). Pub. L. 110–315, § 483(a)(1), added pars. (1) to (12) and struck out former pars. (1) to (7), which related to forms required, charges for forms, distribution of data, contracts for collection and processing, electronic forms, third party servicers and private software providers, and parents' social security numbers and birth dates.

Subsec. (b). Pub. L. 110–315, § 483(a)(2), (3), redesignated subsec. (c) as (b) and struck out former subsec. (b) which related to streamlined reapplication process.

Subsec. (c). Pub. L. 110–315, § 483(a)(4), substituted “or other appropriate provider of technical assistance and

information on postsecondary educational services for individuals with disabilities, including the National Technical Assistance Center under section 1140q of this title. The Secretary shall continue to implement, to the extent practicable, a toll-free telephone based system to permit applicants who meet the requirements of subsection (b) or (c) of section 1087ss of this title to submit an application over such system” for “that is authorized under section 1485(d)(2)(C) of this title”.

Pub. L. 110–315, § 483(a)(3), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Pub. L. 110–315, § 103(b)(10), substituted “authorizing committees” for “Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives”.

Subsec. (d). Pub. L. 110–315, § 483(a)(5), added subsec. (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 110–315, § 483(a)(2), (5), added subsec. (e) and struck out former subsec. (e). Prior to amendment, text read as follows: “Any financial aid application required to be made under this subchapter and part C of subchapter I of chapter 34 of title 42 shall include the name, signature, address or employer's address, social security number or employer identification number, and organizational affiliation of the preparer of such financial aid application.”

Subsecs. (f) to (h). Pub. L. 110–315, § 483(a)(5), added subsecs. (f) to (h).

1998—Subsec. (a). Pub. L. 105–244, § 482(a)(1), substituted “form development” for “form” in heading.

Subsec. (a)(1). Pub. L. 105–244, § 482(a)(2)(D), struck out at end “For the purpose of collecting eligibility and other data for the purpose of part B of this subchapter, the Secretary shall develop a separate, identifiable loan application document (pursuant to section 1082(m) of this title) that applicants or institutions in which the students are enrolled or accepted for enrollment shall submit directly to eligible lenders and on which the applicant shall clearly indicate a choice of a lender.”

Pub. L. 105–244, § 482(a)(2)(C), substituted “The Secretary shall include on the form developed under this subsection such data items as the Secretary determines are appropriate for inclusion. Such items shall be selected in consultation with States to assist in the awarding of State financial assistance. In no case shall the number of such data items be less than the number included on the form on October 7, 1998.” for “The Secretary may include on the form developed pursuant to this paragraph not more than eight nonfinancial data items selected in consultation with the States to assist the States in awarding State student financial assistance.”

Pub. L. 105–244, § 482(a)(2)(A), (B), substituted “A through D” for “A, C, and D” and struck out “and to determine the need of a student for the purpose of part B of this subchapter” after “part A of this subchapter”.

Subsec. (a)(2). Pub. L. 105–244, § 482(a)(3), substituted “A through D” for “A, C, and D” in two places and struck out “and the need of a student for the purpose of part B of this subchapter,” before “may only be determined” and “or have the student's need established for the purpose of part B of this subchapter” before “, except by use of”.

Subsec. (a)(3). Pub. L. 105–244, § 482(a)(4), amended heading and text of par. (3) generally. Prior to amendment, text read as follows: “Institutions of higher education and States shall receive, without charge, the data collected by the Secretary using the form developed pursuant to this section for the purposes of determining need and eligibility for institutional and State financial aid awards. Entities designated by institutions of higher education or States to receive such data shall be subject to all requirements of this section, unless such requirements are waived by the Secretary.”

Subsec. (a)(5) to (7). Pub. L. 105–244, § 482(a)(5), added pars. (5) to (7).

Subsec. (b)(1). Pub. L. 105–244, § 482(b), struck out “, within 240 days after July 23, 1992,” after “The Secretary shall”.

Subsec. (c). Pub. L. 105-244, § 482(c), substituted “and the Workforce” for “and Labor”.

Subsec. (d). Pub. L. 105-244, § 482(d), substituted “section 1485(d)(2)(C)” for “section 1433(c)”.

Subsec. (f). Pub. L. 105-244, § 482(e), struck out heading and text of subsec. (f). Text read as follows: “Nothing in section 1544 of the Higher Education Amendments of 1992 shall relieve processors or institutions of higher education of any or all obligations under this section.”

1993—Subsec. (a)(1). Pub. L. 103-208, § 2(h)(8), made technical amendment to reference to section 1070a(d) of this title to correct reference to corresponding section of original act.

Subsec. (a)(2). Pub. L. 103-208, § 2(h)(9), inserted at end “No data collected on a form for which a fee is charged shall be used to complete the form prescribed under paragraph (1).”

Subsec. (a)(3). Pub. L. 103-208, § 2(h)(10), inserted at end “Entities designated by institutions of higher education or States to receive such data shall be subject to all requirements of this section, unless such requirements are waived by the Secretary.”

Subsecs. (d), (e). Pub. L. 103-208, § 2(h)(12), redesignated subsecs. (e) and (f) as (d) and (e), respectively.

Subsec. (f). Pub. L. 103-208, § 2(h)(12), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Pub. L. 103-208, § 2(h)(11), substituted “address or employer’s address, social security number or employer identification number,” for “address, social security number.”

Subsec. (g). Pub. L. 103-208, § 2(h)(12), redesignated subsec. (g) as (f).

1992—Subsec. (a). Pub. L. 102-325, § 483(a), added subsec. (a) and struck out former subsec. (a) which contained pars. (1) to (5) relating to a common financial aid form and processing of financial aid applications.

Subsec. (b). Pub. L. 102-325, § 483(a), added subsec. (b) and struck out former subsec. (b) which related to certifications of capability of systems for determining expected family contributions.

Subsec. (d). Pub. L. 102-325, § 483(b)(1), struck out subsec. (d) which related to provision of early notice to students of their potential eligibility for financial aid.

Subsec. (e). Pub. L. 102-325, § 483(b)(2), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “The Secretary shall contract for, or establish, and publicize a toll-free telephone number to provide timely and accurate information to the general public. The information provided shall include specific instructions on completing application forms for assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.”

Subsecs. (f), (g). Pub. L. 102-325, § 483(b)(1), (3), added subsecs. (f) and (g) and struck out former subsec. (f) which related to notice of student aid receipt.

1987—Subsec. (a)(1). Pub. L. 100-50, § 15(3), (4), inserted in second sentence “or institutions in which the students are enrolled or accepted for enrollment” after “that applicants” and “and on which the applicant shall clearly indicate a choice of lender” before period at end.

Subsec. (a)(2). Pub. L. 100-50, § 15(5), substituted “not less than 5” for “not less than 3” and inserted sentence at end providing that the Secretary not select new multiple data entry processors until certain examinations and recommendations are made by the Advisory Commission on Student Financial Assistance.

Subsecs. (b) to (f). Pub. L. 100-50, § 15(6), added subsec. (b) and redesignated former subsecs. (b) to (e) as (c) to (f), respectively.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-152 effective July 1, 2010, see section 2101(c) of Pub. L. 111-152, set out as a note under section 1070a of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14,

2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99-498, set out as a note under section 1001 of this title.

Subsec. (e) of this section applicable to student assistance awarded for periods of enrollment beginning on or after July 1, 1987, see section 407(b) of Pub. L. 99-498, set out as a note under section 1091 of this title.

DELAYED IMPLEMENTATION OF EZ FAFSA

Pub. L. 111-39, title IV, § 407(a), July 1, 2009, 123 Stat. 1950, provided that: “Notwithstanding any other provision of law, the Secretary of Education shall be required to carry out the requirements under the following provisions of section 483 of the Higher Education Act of 1965 (20 U.S.C. 1090) only for academic year 2010-2011 and subsequent academic years:

- “(1) In subsection (a) of such section—
 - “(A) subparagraphs (A)(i) and (B) of paragraph (2);
 - “(B) in paragraph (3)—
 - “(i) the second sentence of subparagraph (A);
 - “(ii) clauses (i) and (ii) of subparagraph (B); and
 - “(iii) subparagraph (C);
 - “(C) paragraph (4)(A)(iv); and
 - “(D) paragraph (5)(E).
- “(2) Subsection (h) of such section.”

§ 1091. Student eligibility

(a) In general

In order to receive any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, a student must—

- (1) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which such student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of this title, except as provided in subsections (b)(3) and (b)(4) of this section, and not be enrolled in an elementary or secondary school;

- (2) if the student is presently enrolled at an institution, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with the provisions of subsection (c) of this section;

- (3) not owe a refund on grants previously received at any institution under this subchapter and part C of subchapter I of chapter

34 of title 42, or be in default on any loan from a student loan fund at any institution provided for in part D of this subchapter, or a loan made, insured, or guaranteed by the Secretary under this subchapter and part C of subchapter I of chapter 34 of title 42 for attendance at any institution;

(4) file with the Secretary, as part of the original financial aid application process, a certification, which need not be notarized, but which shall include—

(A) a statement of educational purpose stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution; and

(B) such student's social security number;

(5) be a citizen or national of the United States, a permanent resident of the United States, or able to provide evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident; and

(6) if the student has been convicted of, or has pled *nolo contendere* or guilty to, a crime involving fraud in obtaining funds under this subchapter and part C of subchapter I of chapter 34 of title 42, have completed the repayment of such funds to the Secretary, or to the holder in the case of a loan under this subchapter and part C of subchapter I of chapter 34 of title 42 obtained by fraud.

(b) Eligibility for student loans

(1) In order to be eligible to receive any loan under this subchapter and part C of subchapter I of chapter 34 of title 42 (other than a loan under section 1078-2 or 1078-3 of this title, or under section 1078-8 of this title pursuant to an exercise of discretion under section 1087tt of this title) for any period of enrollment, a student who is not a graduate or professional student (as defined in regulations of the Secretary), and who is enrolled in a program at an institution which has a participation agreement with the Secretary to make awards under subpart 1 of part A of this subchapter, shall—

(A)(i) have received a determination of eligibility or ineligibility for a Pell Grant under such subpart 1 for such period of enrollment; and (ii) if determined to be eligible, have filed an application for a Pell Grant for such enrollment period; or

(B) have (i) filed an application with the Pell Grant processor for such institution for such enrollment period, and (ii) received from the financial aid administrator of the institution a preliminary determination of the student's eligibility or ineligibility for a grant under such subpart 1.

(2) In order to be eligible to receive any loan under section 1078-1¹ of this title for any period of enrollment, a student shall—

(A) have received a determination of need for a loan under section 1078(a)(2)(B) of this title;

(B) if determined to have need for a loan under section 1078 of this title, have applied for such a loan; and

(C) has applied for a loan under section 1078-8 of this title, if such student is eligible to apply for such a loan.

(3) A student who—

(A) is carrying at least one-half the normal full-time work load for the course of study that the student is pursuing, as determined by an eligible institution, and

(B) is enrolled in a course of study necessary for enrollment in a program leading to a degree or certificate,

shall be, notwithstanding paragraph (1) of subsection (a) of this section, eligible to apply for loans under part B or C of this subchapter. The eligibility described in this paragraph shall be restricted to one 12-month period.

(4) A student who—

(A) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution, and

(B) is enrolled or accepted for enrollment in a program at an eligible institution necessary for a professional credential or certification from a State that is required for employment as a teacher in an elementary or secondary school in that State,

shall be, notwithstanding paragraph (1) of subsection (a) of this section, eligible to apply for loans under part B, C, or D of this subchapter or work-study assistance under part C of subchapter I of chapter 34 of title 42.

(5) Notwithstanding any other provision of this subsection, no incarcerated student is eligible to receive a loan under this subchapter and part C of subchapter I of chapter 34 of title 42.

(c) Satisfactory progress

(1) For the purpose of subsection (a)(2) of this section, a student is maintaining satisfactory progress if—

(A) the institution at which the student is in attendance, reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution, and

(B) the student has a cumulative C average, or its equivalent or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

(2) Whenever a student fails to meet the eligibility requirements of subsection (a)(2) of this section as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(2) of this section for a grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(3) Any institution of higher education at which the student is in attendance may waive the provisions of paragraph (1) or paragraph (2) of this subsection for undue hardship based on—

¹ See References in Text note below.

- (A) the death of a relative of the student,
- (B) the personal injury or illness of the student, or
- (C) special circumstances as determined by the institution.

(d) Students who are not high school graduates

In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, to be eligible for any assistance under subparts 1, 3, and 4 of part A and parts B, C, and D of this subchapter and part C of subchapter I of chapter 34 of title 42, the student shall have completed a secondary school education in a home school setting that is treated as a home school or private school under State law.

(e) Certification for GSL eligibility

Each eligible institution may certify student eligibility for a loan by an eligible lender under part B of this subchapter prior to completing the review for accuracy of the information submitted by the applicant required by regulations issued under this subchapter and part C of subchapter I of chapter 34 of title 42, if—

- (1) checks for the loans are mailed to the eligible institution prior to disbursements;
- (2) the disbursement is not made until the review is complete; and
- (3) the eligible institution has no evidence or documentation on which the institution may base a determination that the information submitted by the applicant is incorrect.

(f) Loss of eligibility for violation of loan limits

(1) No student shall be eligible to receive any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 if the eligible institution determines that the student fraudulently borrowed in violation of the annual loan limits under part B, part C, or part D of this subchapter in the same academic year, or if the student fraudulently borrowed in excess of the aggregate maximum loan limits under such part B, part C, or part D.

(2) If the institution determines that the student inadvertently borrowed amounts in excess of such annual or aggregate maximum loan limits, such institution shall allow the student to repay any amount borrowed in excess of such limits prior to certifying the student's eligibility for further assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(g) Verification of immigration status

(1) In general

The Secretary shall implement a system under which the statements and supporting documentation, if required, of an individual declaring that such individual is in compliance with the requirements of subsection (a)(5) of this section shall be verified prior to the individual's receipt of a grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(2) Special rule

The documents collected and maintained by an eligible institution in the admission of a

student to the institution may be used by the student in lieu of the documents used to establish both employment authorization and identity under section 1324a(b)(1)(B) of title 8 to verify eligibility to participate in work-study programs under part C of subchapter I of chapter 34 of title 42.

(3) Verification mechanisms

The Secretary is authorized to verify such statements and supporting documentation through a data match, using an automated or other system, with other Federal agencies that may be in possession of information relevant to such statements and supporting documentation.

(4) Review

In the case of such an individual who is not a citizen or national of the United States, if the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

(A) the institution—

- (i) shall provide a reasonable opportunity to submit to the institution evidence indicating a satisfactory immigration status, and
- (ii) may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

(B) if there are submitted documents which the institution determines constitute reasonable evidence indicating such status—

- (i) the institution shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,
- (ii) pending such verification, the institution may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status, and
- (iii) the institution shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

(h) Limitations of enforcement actions against institutions

The Secretary shall not take any compliance, disallowance, penalty, or other regulatory action against an institution of higher education with respect to any error in the institution's determination to make a student eligible for a grant, loan, or work assistance based on citizenship or immigration status—

- (1) if the institution has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,
- (2) because the institution, under subsection (g)(4)(A)(i) of this section, was required to pro-

vide a reasonable opportunity to submit documentation, or

(3) because the institution, under subsection (g)(4)(B)(i) of this section, was required to wait for the response of the Immigration and Naturalization Service to the institution's request for official verification of the immigration status of the student.

(i) Validity of loan guarantees for loan payments made before immigration status verification completed

Notwithstanding subsection (h)¹ of this section, if—

(1) a guaranty is made under this subchapter and part C of subchapter I of chapter 34 of title 42 for a loan made with respect to an individual,

(2) at the time the guaranty is entered into, the provisions of subsection (h)¹ of this section had been complied with,

(3) amounts are paid under the loan subject to such guaranty, and

(4) there is a subsequent determination that, because of an unsatisfactory immigration status, the individual is not eligible for the loan,

the official of the institution making the determination shall notify and instruct the entity making the loan to cease further payments under the loan, but such guaranty shall not be voided or otherwise nullified with respect to such payments made before the date the entity receives the notice.

(j) Repealed. Pub. L. 110-315, title IV, § 485(a)(4), Aug. 14, 2008, 122 Stat. 3288

(k) Special rule for correspondence courses

A student shall not be eligible to receive grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 for a correspondence course unless such course is part of a program leading to an associate, bachelor or graduate degree.

(l) Courses offered through distance education

(1) Relation to correspondence courses

(A) In general

A student enrolled in a course of instruction at an institution of higher education that is offered principally through distance education and leads to a recognized certificate, or recognized associate, recognized baccalaureate, or recognized graduate degree, conferred by such institution, shall not be considered to be enrolled in correspondence courses.

(B) Exception

An institution of higher education referred to in subparagraph (A) shall not include an institution or school described in section 2302(3)(C) of this title.

(2) Reductions of financial aid

A student's eligibility to receive grants, loans, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 shall be reduced if a financial aid officer determines under the discretionary authority provided in section 1087tt of this title

that distance education results in a substantially reduced cost of attendance to such student.

(3) Special rule

For award years beginning prior to July 1, 2008, the Secretary shall not take any compliance, disallowance, penalty, or other action based on a violation of this subsection against a student or an eligible institution when such action arises out of such institution's prior award of student assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 if the institution demonstrates to the satisfaction of the Secretary that its course of instruction would have been in conformance with the requirements of this subsection.

(m) Students with a first baccalaureate or professional degree

A student shall not be ineligible for assistance under parts B, C, and D of this subchapter and part C of subchapter I of chapter 34 of title 42 because such student has previously received a baccalaureate or professional degree.

(n) Data base matching

To enforce the Selective Service registration provisions of section 462(f) of title 50, Appendix, the Secretary shall conduct data base matches with the Selective Service, using common demographic data elements. Appropriate confirmation, through an application output document or through other means, of any person's registration shall fulfill the requirement to file a separate statement of compliance. In the absence of a confirmation from such data matches, an institution may also use data or documents that support either the student's registration, or the absence of a registration requirement for the student, to fulfill the requirement to file a separate statement of compliance. The mechanism for reporting the resolution of nonconfirmed matches shall be prescribed by the Secretary in regulations.

(o) Study abroad

Nothing in this chapter and part C of subchapter I of chapter 34 of title 42 shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, without regard to whether such study abroad program is required as part of the student's degree program.

(p) Verification of social security number

The Secretary of Education, in cooperation with the Commissioner of the Social Security Administration, shall verify any social security number provided by a student to an eligible institution under subsection (a)(4) of this section and shall enforce the following conditions:

(1) Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for

assistance under this part because social security number verification is pending.

(2) If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

(3) If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, and a correct social security number cannot be provided by such student, and a loan has been guaranteed for such student under part B of this subchapter, the institution shall notify and instruct the lender and guaranty agency making and guaranteeing the loan, respectively, to cease further disbursements of the loan, but such guaranty shall not be voided or otherwise nullified with respect to such disbursements made before the date that the lender and the guaranty agency receives such notice.

(4) Nothing in this subsection shall permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

(A) any institution of higher education with respect to any error in a social security number, unless such error was a result of fraud on the part of the institution; or

(B) any student with respect to any error in a social security number, unless such error was a result of fraud on the part of the student.

(q) Use of income data

(1) Matching with IRS

The Secretary, in cooperation with the Secretary of the Treasury, is authorized to obtain from the Internal Revenue Service such information reported on Federal income tax returns by applicants, or by any other person whose financial information is required to be provided on the Federal student financial aid application, as the Secretary determines is necessary for the purpose of—

(A) prepopulating the Federal student financial aid application described in section 1090 of this title; or

(B) verifying the information reported on such student financial aid applications.

(2) Consent

The Secretary may require that applicants for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 provide a consent to the disclosure of the data described in paragraph (1) as a condition of the student receiving assistance under this subchapter and part C of subchapter I of chapter 34 of title 42. The parents of an applicant, in the case of a dependent student, or the spouse of an applicant, in the case of an applicant who is married but files separately, may also be required to provide consent as a condi-

tion of the student receiving assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(r) Suspension of eligibility for drug-related offenses

(1) In general

A student who is convicted of any offense under any Federal or State law involving the possession or sale of a controlled substance for conduct that occurred during a period of enrollment for which the student was receiving any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 shall not be eligible to receive any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 from the date of that conviction for the period of time specified in the following table:

If convicted of an offense involving:

The possession of a controlled substance:	Ineligibility period is:
First offense	1 year
Second offense	2 years
Third offense	Indefinite.

The sale of a controlled substance:	Ineligibility period is:
First offense	2 years
Second offense	Indefinite.

(2) Rehabilitation

A student whose eligibility has been suspended under paragraph (1) may resume eligibility before the end of the ineligibility period determined under such paragraph if—

(A) the student satisfactorily completes a drug rehabilitation program that—

(i) complies with such criteria as the Secretary shall prescribe in regulations for purposes of this paragraph; and

(ii) includes two unannounced drug tests;

(B) the student successfully passes two unannounced drug tests conducted by a drug rehabilitation program that complies with such criteria as the Secretary shall prescribe in regulations for purposes of subparagraph (A)(i); or

(C) the conviction is reversed, set aside, or otherwise rendered nugatory.

(3) Definitions

In this subsection, the term “controlled substance” has the meaning given the term in section 802(6) of title 21.

(s) Students with intellectual disabilities

(1) Definitions

In this subsection the terms “comprehensive transition and postsecondary program for students with intellectual disabilities” and “student with an intellectual disability” have the meanings given the terms in section 1140 of this title.

(2) Requirements

Notwithstanding subsections (a), (c), and (d), in order to receive any grant or work assistance under section 1070a of this title, subpart 3 of part A of this subchapter, or part C of subchapter I of chapter 34 of title 42, a student with an intellectual disability shall—

(A) be enrolled or accepted for enrollment in a comprehensive transition and post-secondary program for students with intellectual disabilities at an institution of higher education;

(B) be maintaining satisfactory progress in the program as determined by the institution, in accordance with standards established by the institution; and

(C) meet the requirements of paragraphs (3), (4), (5), and (6) of subsection (a).

(3) Authority

Notwithstanding any other provision of law unless such provision is enacted with specific reference to this section, the Secretary is authorized to waive any statutory provision applicable to the student financial assistance programs under section 1070a of this title, subpart 3 of part A of this subchapter, or part C of subchapter I of chapter 34 of title 42 (other than a provision of part E of this subchapter related to such a program), or any institutional eligibility provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, as the Secretary determines necessary to ensure that programs enrolling students with intellectual disabilities otherwise determined to be eligible under this subsection may receive such financial assistance.

(4) Regulations

Notwithstanding regulations applicable to grant or work assistance awards made under section 1070a of this title, subpart 3 of part A of this subchapter, and part C of subchapter I of chapter 34 of title 42 (other than a regulation under part E of this subchapter related to such an award), including with respect to eligible programs, instructional time, credit status, and enrollment status as described in section 1088 of this title, the Secretary shall promulgate regulations allowing programs enrolling students with intellectual disabilities otherwise determined to be eligible under this subsection to receive such awards.

(t) Data analysis on access to Federal student aid for certain populations

(1) Development of the system

Within one year of August 14, 2008, the Secretary shall analyze data from the FAFSA containing information regarding the number, characteristics, and circumstances of students denied Federal student aid based on a drug conviction while receiving Federal aid.

(2) Results from analysis

The results from the analysis of such information shall be made available on a continuous basis via the Department website and the Digest of Education Statistics.

(3) Data updating

The data analyzed under this subsection shall be updated at the beginning of each award year and at least one additional time during such award year.

(4) Report to Congress

The Secretary shall prepare and submit to the authorizing committees, in each fiscal year, a report describing the results obtained

by the establishment and operation of the data system authorized by this subsection.

(Pub. L. 89-329, title IV, § 484, as added Pub. L. 99-498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1479; amended Pub. L. 99-603, title I, § 121(a)(3), Nov. 6, 1986, 100 Stat. 3388; Pub. L. 100-50, § 15(7)-(9), June 3, 1987, 101 Stat. 356, 357; Pub. L. 100-369, §§ 1, 2, 6, July 18, 1988, 102 Stat. 835, 836; Pub. L. 100-525, § 2(g), Oct. 24, 1988, 102 Stat. 2611; Pub. L. 101-508, title III, § 3005(a), Nov. 5, 1990, 104 Stat. 1388-27; Pub. L. 102-26, § 2(b), (c)(2), (d)(2)(A), Apr. 9, 1991, 105 Stat. 123, 124; Pub. L. 102-73, title VIII, § 801(a), July 25, 1991, 105 Stat. 359; Pub. L. 102-325, title IV, § 484(a), (b)(1), (c)-(h), July 23, 1992, 106 Stat. 615-619; Pub. L. 103-208, § 2(h)(13)-(25), Dec. 20, 1993, 107 Stat. 2476, 2477; Pub. L. 103-382, title III, § 360A, Oct. 20, 1994, 108 Stat. 3969; Pub. L. 104-208, div. C, title V, § 507(b), Sept. 30, 1996, 110 Stat. 3009-673; Pub. L. 105-244, title IV, § 483(a)-(f)(1), Oct. 7, 1998, 112 Stat. 1735, 1736; Pub. L. 109-171, title VIII, §§ 8020(c), 8021, Feb. 8, 2006, 120 Stat. 178; Pub. L. 109-270, § 2(c)(2), Aug. 12, 2006, 120 Stat. 746; Pub. L. 110-315, title IV, § 485(a), Aug. 14, 2008, 122 Stat. 3287; Pub. L. 111-39, title IV, § 407(b)(4), July 1, 2009, 123 Stat. 1950; Pub. L. 112-74, div. F, title III, § 309(c)(1), Dec. 23, 2011, 125 Stat. 1100.)

REFERENCES IN TEXT

Section 1078-1 of this title, referred to in subsec. (b)(2), was repealed by Pub. L. 103-66, title IV, § 4047(b)-(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078-1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105-244, title IV, § 418, Oct. 7, 1998, 112 Stat. 1691.

Subsection (h) of this section, referred to in subsec. (i), was redesignated subsec. (g) of this section by Pub. L. 103-208, § 2(h)(25), Dec. 20, 1993, 107 Stat. 2477.

PRIOR PROVISIONS

A prior section 1091, Pub. L. 89-329, title IV, § 484, as added Pub. L. 96-374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1448; Pub. L. 99-272, title XVI, § 16032(a), (b), Apr. 7, 1986, 100 Stat. 354, related to student eligibility for assistance, prior to the general revision of this part by Pub. L. 99-498.

Another prior section 1091, Pub. L. 89-329, title V, § 501, Nov. 8, 1965, 79 Stat. 1254; Pub. L. 90-35, § 2(c), June 29, 1967, 81 Stat. 82; Pub. L. 92-318, title I, § 141(b)(1), June 23, 1972, 86 Stat. 285, set forth statement of purpose and authorization of appropriations for education professions development program, prior to repeal effective Sept. 30, 1976, by Pub. L. 94-482, title I, § 151(a)(2), (b), Oct. 12, 1976, 90 Stat. 2151.

AMENDMENTS

2011—Subsec. (d). Pub. L. 112-74 struck out “meet one of the following standards:” after “the student shall”, substituted “have completed” for “(3) The student has completed”, and struck out pars. (1), (2) and (4), which required students to take an independently administered examination, required a State process, or required an institution of higher education, respectively, to determine ability of students to benefit from education or training.

2009—Subsec. (a)(4). Pub. L. 111-39, § 407(b)(4)(A), substituted “certification,” for “certification,,” in introductory provisions.

Subsec. (b)(1)(B). Pub. L. 111-39, § 407(b)(4)(B), substituted “have (i)” for “have (A)” and “and (ii)” for “and (B)”.

Subsec. (f)(1). Pub. L. 111-39, § 407(b)(4)(C), amended references in original which appear in text as ref-

erences to part B, part C, or part D, resulting in text identical to that after execution of Pub. L. 103-208, §2(h)(18). See 1993 Amendment note for subsec. (g) below.

Subsec. (h)(2), (3). Pub. L. 111-39, §407(b)(4)(D), substituted “(g)(4)(A)(i)” for “(h)(4)(A)(i)” in par. (2) and “(g)(4)(B)(i)” for “(h)(4)(B)(i)” in par. (3).

Subsec. (n). Pub. L. 111-39, §407(b)(4)(E), substituted “section 462(f) of title 50, Appendix” for “section 1113 of Public Law 97-252”.

2008—Subsec. (a)(4)(B). Pub. L. 110-315, §485(a)(1)(A), substituted “number;” for “number, except that the provisions of this subparagraph shall not apply to a student from the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau;”.

Subsec. (a)(5). Pub. L. 110-315, §485(a)(1)(B), inserted “or” after “a permanent resident of the United States,” and substituted “citizen or permanent resident;” for “citizen or permanent resident, a citizen of any one of the Freely Associated States;”.

Subsec. (b)(1). Pub. L. 110-315, §485(a)(2), inserted “, or under section 1078-8 of this title pursuant to an exercise of discretion under section 1087tt of this title” after “1078-3 of this title”.

Subsec. (d)(4). Pub. L. 110-315, §485(a)(3), added par. (4).

Subsec. (j). Pub. L. 110-315, §485(a)(4), struck out subsec. (j). Text read as follows: “Notwithstanding any other provision of law, a student shall be eligible until September 30, 2004, for assistance under subparts 1 and 3 of part A of this subchapter, and part C of subchapter I of chapter 34 of title 42, if the student is otherwise qualified and—

“(1) is a citizen of any one of the Freely Associated States and attends an institution of higher education in a State or a public or nonprofit private institution of higher education in the Freely Associated States; or

“(2) meets the requirements of subsection (a)(5) of this section and attends a public or nonprofit private institution of higher education in any one of the Freely Associated States.”

Subsec. (l). Pub. L. 110-315, §485(a)(5), added subsec. (l) and struck out former subsec. (l) which related to courses offered through telecommunications.

Subsec. (q). Pub. L. 110-315, §485(a)(6), added subsec. (q) and struck out former subsec. (q) which related to verification of income data.

Subsec. (r)(2)(B), (C). Pub. L. 110-315, §485(a)(7), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (s). Pub. L. 110-315, §485(a)(8), added subsec. (s).

Subsec. (t). Pub. L. 110-315, §485(a)(9), added subsec. (t).

2006—Subsec. (a)(6). Pub. L. 109-171, §8021(a), added par. (6).

Subsec. (l)(1)(A). Pub. L. 109-171, §8020(c)(1), struck out “for a program of study of 1 year or longer” after “recognized certificate” and “unless the total amount of telecommunications and correspondence courses at such institution equals or exceeds 50 percent of the total amount of all courses at the institution” before period at end.

Subsec. (l)(1)(B). Pub. L. 109-171, §8020(c)(2), amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: “An institution of higher education referred to in subparagraph (A) is an institution of higher education—

“(i) that is not an institute or school described in section 2471(4)(C) of this title; and

“(ii) for which at least 50 percent of the programs of study offered by the institution lead to the award of a recognized associate, baccalaureate, or graduate degree.”

Subsec. (l)(1)(B)(i). Pub. L. 109-270, which directed substitution of reference to section 2302(C) of this title for reference to section 2471(4)(C) of this title in cl. (i), could not be executed due to general amendment of subpar. (B) by Pub. L. 109-171. See above.

Subsec. (q)(1). Pub. L. 109-171, §8021(b), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: “The Secretary of Education, in cooperation with the Secretary of the Treasury, is authorized to confirm with the Internal Revenue Service the adjusted gross income, Federal income taxes paid, filing status, and exemptions reported by applicants (including parents) under this subchapter and part C of subchapter I of chapter 34 of title 42 on their Federal income tax returns for the purpose of verifying the information reported by applicants on student financial aid applications.”

Subsec. (r)(1). Pub. L. 109-171, §8021(c), amended heading and text of introductory provisions generally. Prior to amendment, text of introductory provisions read as follows: “A student who has been convicted of any offense under any Federal or State law involving the possession or sale of a controlled substance shall not be eligible to receive any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 during the period beginning on the date of such conviction and ending after the interval specified in the following table:”.

1998—Subsec. (a)(4). Pub. L. 105-244, §483(a)(1), substituted “the Secretary, as part of the original financial aid application process, a certification,” for “the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a document” in introductory provisions.

Subsec. (a)(5). Pub. L. 105-244, §483(a)(2), substituted “a citizen of any one of the Freely Associated States” for “or a permanent resident of the Trust Territory of the Pacific Islands, Guam, or the Northern Mariana Islands”.

Subsec. (d). Pub. L. 105-244, §483(b), struck out “either” after “shall meet” in introductory provisions and added par. (3).

Subsec. (j). Pub. L. 105-244, §483(c), amended heading and text of subsec. (j) generally. Prior to amendment, text read as follows: “Notwithstanding any other provision of law, a student shall be eligible, if otherwise qualified, for assistance under subparts 1, 3, and 6, and division 1 of subpart 2, of part A of this subchapter, and part C of subchapter I of chapter 34 of title 42, if the student is otherwise qualified and—

“(1) is a citizen of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, and attends an institution of higher education in a State or a public or nonprofit private institution of higher education in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau; or

“(2) meets the requirements of subsection (a)(5) of this section and attends a public or nonprofit private institution of higher education in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau.”

Subsec. (l)(1). Pub. L. 105-244, §483(d), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: “A student enrolled in a course of instruction at an eligible institution of higher education (other than an institution that meets the definition in section 2471(4)(C) of this title) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by such institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at such institution equals or exceeds 50 percent of such courses.”

Subsec. (q). Pub. L. 105-244, §483(e), added subsec. (q).

Subsec. (r). Pub. L. 105-244, §483(f)(1), added subsec. (r).

1996—Subsec. (g)(4)(B)(i). Pub. L. 104-208 amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: “the institution shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification.”

1994—Subsec. (j). Pub. L. 103-382 amended heading and text of subsec. (j) generally. Prior to amendment, text read as follows: “Notwithstanding any other provision of law, a student who meets the requirements of paragraph (a)(5) of this section or who is a resident of the freely associated states, and who attends a public or nonprofit institution of higher education located in any of the freely associated states rather than a State, shall be eligible, if otherwise qualified, for assistance under subpart 1, 2, or 4 of part A of this subchapter or part C of subchapter I of chapter 34 of title 42.”

1993—Subsec. (a)(4)(B). Pub. L. 103-208, §2(h)(13), inserted “, except that the provisions of this subparagraph shall not apply to a student from the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau” after “number”.

Subsec. (a)(5). Pub. L. 103-208, §2(h)(14), substituted “able to provide evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident” for “in the United States for other than a temporary purpose and able to provide evidence from the Immigration and Naturalization Service of his or her intent to become a permanent resident”.

Subsec. (b)(2)(C). Pub. L. 103-208, §2(h)(15), added subpar. (C).

Subsec. (b)(3). Pub. L. 103-208, §2(h)(16), substituted “part B or C of this subchapter” for “part B of this subchapter” in closing provisions.

Subsec. (f). Pub. L. 103-208, §2(h)(17), (25), redesignated subsec. (g) as (f) and struck out heading and text of former subsec. (f). Text read as follows: “Notwithstanding any other provision of law, the Secretary may not require, or prescribe regulations that require, institutions to verify the accuracy of data used to determine the eligibility for any program under this subchapter and part C of subchapter I of chapter 34 of title 42 for more than 30 percent of the applicants in any award year. In carrying out the provisions of this subsection no eligible institution shall be required to verify more than 30 percent of such applicants in any award year. Nothing in this subsection shall preclude the Secretary from verifying all applications for aid through the use of any means available, including through the exchange of information with any other Federal agency.”

Subsec. (g). Pub. L. 103-208, §2(h)(25), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

Pub. L. 103-208, §2(h)(18), which directed insertion of a comma after “, Part C” wherever appearing, was executed by inserting a comma after “, part C” wherever appearing, to reflect the probable intent of Congress.

Subsec. (h). Pub. L. 103-208, §2(h)(25), redesignated subsec. (i) as (h). Former subsec. (h) redesignated (g).

Pub. L. 103-208, §2(h)(19), substituted “constitute” for “constitutes” in introductory provisions of par. (4)(B).

Subsec. (i). Pub. L. 103-208, §2(h)(25), redesignated subsec. (j) as (i). Former subsec. (i) redesignated (h).

Pub. L. 103-208, §2(h)(22), struck out par. (4) which read as follows: “because of a fair hearing process described in subsection (h)(5)(B) of this section.”

Pub. L. 103-208, §2(h)(21), substituted “(h)(4)(B)(i)” for “(h)(4)(B)(ii)” and “student,” for “student, or” in par. (3).

Pub. L. 103-208, §2(h)(20), inserted “or” after “documentation,” and substituted “(h)(4)(A)(i)” for “(h)(4)(A)(ii)” in par. (2).

Subsecs. (j) to (m). Pub. L. 103-208, §2(h)(25), redesignated subsecs. (k) to (n) as (j) to (m), respectively. Former subsec. (j) redesignated (i).

Subsec. (n). Pub. L. 103-208, §2(h)(25), redesignated subsec. (o) as (n). Former subsec. (n) redesignated (m).

Pub. L. 103-208, §2(h)(23), substituted “parts B, C,” for “part B, C,”.

Subsecs. (o), (p). Pub. L. 103-208, §2(h)(25), redesignated subsecs. (p) and (q) as (o) and (p), respectively. Former subsec. (o) redesignated (n).

Subsec. (q). Pub. L. 103-208, §2(h)(25), redesignated subsec. (q) as (p).

Pub. L. 103-208, §2(h)(24), substituted “documented evidence of a social security number that is determined by the institution to be correct” for “a correct social security number” in par. (2).

1992—Subsec. (a)(1). Pub. L. 102-325, §484(a)(1), inserted “(including a program of study abroad approved for credit by the eligible institution at which such student is enrolled)” after “or other program”.

Subsec. (a)(4). Pub. L. 102-325, §484(a)(2), added par. (4) and struck out former par. (4) which read as follows: “file with the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a statement of educational purpose (which need not be notarized but which shall include such student’s social security number or, if the student does not have a social security number, such student’s student identification number) stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution; and”.

Subsec. (b)(4)(B). Pub. L. 102-325, §484(b)(1)(A), substituted “part B, C, or D of this subchapter or work-study assistance under part C of subchapter I of chapter 34 of title 42” for “part B of this subchapter” in concluding provisions.

Subsec. (b)(5). Pub. L. 102-325, §484(b)(1)(B), added par. (5).

Subsec. (d). Pub. L. 102-325, §484(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, to be eligible for any assistance under subparts 1, 2, and 3 of part A and parts B, C, and D of this subchapter and part C of subchapter I of chapter 34 of title 42, the student shall pass an independently administered examination approved by the Secretary.”

Subsec. (f). Pub. L. 102-325, §484(d), inserted at end “Nothing in this subsection shall preclude the Secretary from verifying all applications for aid through the use of any means available, including through the exchange of information with any other Federal agency.”

Subsec. (g). Pub. L. 102-325, §484(e), designated existing provisions as par. (1), inserted “, part C” after “part B” in two places and “fraudulently” before “borrowed” in two places, and added par. (2).

Subsec. (h). Pub. L. 102-325, §484(f), amended subsec. (h) generally. Prior to amendment, subsec. (h) contained pars. (1) to (6) relating to requirements for verification of student immigration status.

Subsec. (k). Pub. L. 102-325, §484(h), made technical amendment to directory language of Pub. L. 102-73, §801(a). See 1991 Amendment note below.

Subsecs. (l) to (q). Pub. L. 102-325, §484(g), added subsecs. (l) to (q).

1991—Subsec. (a)(1). Pub. L. 102-26, §2(c)(2), inserted before semicolon at end “, and not be enrolled in an elementary or secondary school”.

Subsec. (d). Pub. L. 102-26, §2(d)(2)(A), repealed Pub. L. 101-508, §3005(a). See 1990 Amendment note below.

Pub. L. 102-26, §2(b), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “A student who is admitted on the basis of the ability to benefit from the education or training in order to remain eligible for any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 shall—

“(1) receive the general education diploma prior to the student’s certification or graduation from the program of study, or by the end of the first year of the course of study, whichever is earlier;

“(2) be counseled prior to admission and be enrolled in and successfully complete the institutionally prescribed program of remedial or developmental education not to exceed one academic year or its equivalent; or

“(3)(A) be administered a nationally recognized, standardized, or industry developed test, subject to

criteria developed by the appropriate accrediting association, measuring the applicant's aptitude to complete successfully the program to which the applicant has applied; and

“(B) with respect to applicants who are unable to satisfy the institutions' admissions testing requirements specified in subparagraph (A), be enrolled in and successfully complete an institutionally prescribed program or course of remedial or developmental education not to exceed one academic year or its equivalent.

In order to be eligible for assistance a student cannot be enrolled in either an elementary or a secondary school.”

Subsec. (k). Pub. L. 102-73, as amended by Pub. L. 102-325, § 484(h), added subsec. (k).

1990—Subsec. (d). Pub. L. 101-508, which amended subsec. (d) generally to read: “In order for a student who is admitted on the basis of ability to benefit from the education or training offered to be eligible for any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, the student shall, prior to enrollment, pass an independently administered examination approved by the Secretary.”, was repealed by Pub. L. 102-26, § 2(d)(2)(A). See Construction of 1991 Amendment note below.

1988—Subsec. (a)(1). Pub. L. 100-369, § 6(1), substituted “subsections (b)(3) and (b)(4)” for “subsection (b)(2)”.

Subsec. (b)(1). Pub. L. 100-369, § 1(1), substituted “section 1078-2 or 1078-3” for “section 1078-1, 1078-2, or 1078-3”.

Subsec. (b)(1)(A). Pub. L. 100-369, § 1(2), added subpar. (A) and struck out former subpar. (A) which read as follows: “have received a determination of eligibility or ineligibility for a grant under such subpart 1 for such period of enrollment; or”.

Subsec. (b)(2), (3). Pub. L. 100-369, § 2, added par. (2) and redesignated former par. (2) as (3).

Subsec. (b)(4). Pub. L. 100-369, § 6(2), added par. (4).

Subsecs. (c) to (e), (h) to (j). Pub. L. 100-525 redesignated subsecs. (c) to (e) enacted by Pub. L. 99-603 as (h) to (j), respectively, and inserted headings, substituted references to subsec. (h) for references to subsec. (c) wherever appearing, and in closing provisions of subsec. (j) substituted “date” for “date of”.

1987—Subsec. (a)(1). Pub. L. 100-50, § 15(7)(A), inserted “, except as provided in subsection (b)(2) of this section” before semicolon at end.

Subsec. (b). Pub. L. 100-50, § 15(7)(B)–(D), designated existing provision as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

Subsec. (d). Pub. L. 100-50, § 15(8), added pars. (2) and (3) and last sentence relating to ineligibility for assistance if a student is enrolled in either an elementary or a secondary school, and struck out former par. (2) which read as follows:

“(A) be counseled prior to admissions or be administered a nationally recognized standardized or industry developed test, subject to criteria developed by the appropriate accrediting association, measuring the applicant's aptitude to complete successfully the program to which he has applied; and

“(B) with respect to applicants who are unable to satisfy the institution's admissions testing requirements specified in subparagraph (A), be enrolled in an institutionally prescribed program or course of remedial or developmental education, not to exceed one academic year or its equivalent.”

Subsec. (f). Pub. L. 100-50, § 15(9), inserted at end “In carrying out provisions of this subsection no eligible institution shall be required to verify more than 30 percent of such applications in any award year.”

1986—Subsec. (c). Pub. L. 99-603 added subsec. (c) requiring immigration status verification.

Subsec. (d). Pub. L. 99-603 added subsec. (d) limiting enforcement actions against institutions.

Subsec. (e). Pub. L. 99-603 added subsec. (e) relating to validity of loan guarantees for loan payments made before completion of immigration status verification.

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112-74, div. F, title III, § 309(c)(2), Dec. 23, 2011, 125 Stat. 1100, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to students who first enroll in a program of study on or after July 1, 2012.”

Amendment by Pub. L. 112-74 effective July 1, 2012, see section 309(g) of Pub. L. 112-74, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-315, title IV, § 485(b), Aug. 14, 2008, 122 Stat. 3290, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on July 1, 2010, except that the amendments made by paragraphs (3), (4), and (8) of such subsection shall take effect on the date of enactment of this Act [August 14, 2008].”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109-171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 483(a)–(e) of Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

Pub. L. 105-244, title IV, § 483(f)(2), Oct. 7, 1998, 112 Stat. 1737, provided that: “The amendment made by paragraph (1) [amending this section], regarding suspension of eligibility for drug-related offenses, shall apply with respect to financial assistance to cover the costs of attendance for periods of enrollment beginning after the date of enactment of this Act [Oct. 7, 1998].”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 484(a), (b)(1)(B), and (c) to (h) of Pub. L. 102-325 effective July 23, 1992, except that subsec. (m)(1) of this section, relating to proportion of courses permitted to be correspondence courses, as added by such amendment, effective on and after Oct. 1, 1992, see section 498 of Pub. L. 102-325, set out as a note under section 1088 of this title, and subsec. (n) of this section, relating to eligibility of students with first baccalaureate or professional degree for assistance, as added by such amendment, effective on and after Dec. 1, 1987, see section 484(i) of Pub. L. 102-325, set out below.

Section 484(b)(2) of Pub. L. 102-325 provided that: “The amendments made by paragraph (1)(A) of this subsection [amending this section] shall be effective on and after December 1, 1987.”

Section 484(i) of Pub. L. 102-325, as added by Pub. L. 103-208, § 2(k)(8), Dec. 20, 1993, 107 Stat. 2486, provided that: “The amendments made by subsection (g) [section 484(g) of Pub. L. 102-325] with respect to the addition of subsection (n) [adding subsec. (n) of this section] shall be effective on and after December 1, 1987.”

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-26 applicable to any grant, loan, or work assistance to cover the cost of instruc-

tion for periods of enrollment beginning on or after July 1, 1991, see section 2(d)(1) of Pub. L. 102-26, set out as a note under section 1085 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100-525 effective as if included in enactment of Immigration Reform and Control Act of 1986, Pub. L. 99-603, see section 2(s) of Pub. L. 100-525, set out as a note under section 1101 of Title 8, Aliens and Nationality.

Section 13 of Pub. L. 100-369 provided that:

“(a) GENERAL RULE.—Except as otherwise provided, the amendments made by this Act to title IV of the Higher Education Act of 1965 [amending this section and section 1078-1 of this title] shall be effective for any loan for which the eligibility of the borrower is certified by the institution 30 days after the date of enactment of this Act [July 18, 1988].

“(b) SPECIAL RULES.—(1) The amendments made by section 5 [amending this section and sections 1077 and 1078 of this title] shall be effective with respect to loans made on or after October 1, 1988.

“(2) The amendments made by sections 6, 7, 8, 9, 10, 11, and 12 [amending this section, sections 1058, 1061, 1062, 1070a-1, 1070a-3, 1070a-4, 1070a-6, 1071, 1077, 1078, 1087-2, 1087dd, 1087ee, 1087nn, 1087ss, 1087vv, 1132d-1, 1132g-1, and 1134m of this title, and section 1905 of Title 48, Territories and Insular Possessions] shall take effect on the date of enactment of this Act [July 18, 1988].”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-603 effective Oct. 1, 1988, with certain exceptions and qualifications, see section 121(c)(3), (4) of Pub. L. 99-603, set out as a note under section 1320b-7 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99-498, set out as a note under section 1001 of this title.

Section 407(b) of Pub. L. 99-498 provided that:

“(1) Sections 483(e) and 484(d) of the Act [20 U.S.C. 1090(e), 1091(d)] as amended by this section shall apply to student assistance awarded for periods of enrollment beginning on or after July 1, 1987.

“(2) The changes made in section 484(a)(1) of the Act [20 U.S.C. 1091(a)(1)] shall apply to student assistance awarded for periods of enrollment beginning on or after July 1, 1987.

“(3) Section 484(c) of the Act [20 U.S.C. 1091(c)] as amended by this section shall apply only to student assistance awarded for periods of enrollment beginning on or after July 1, 1987, to individuals who were not awarded such assistance for any preceding period of enrollment.

“(4) Sections 484(f), 485(b), and 487(a)(10) of the Act [20 U.S.C. 1091(f), 1092(b), 1094(a)(10)] as amended by this section shall apply only to periods of enrollment beginning on or after July 1, 1987.”

CONSTRUCTION OF 1991 AMENDMENT

For repeal of section 3005 of Pub. L. 101-508 and application of subsec. (d) of this section as if such section 3005 had not been enacted, see section 2(d)(2)(A) of Pub. L. 102-26, set out as a note under section 1088 of this title.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related

references, see note set out under section 1551 of Title 8, Aliens and Nationality.

SATISFACTORY PROGRESS

Section 1301 of Pub. L. 99-498, as amended by Pub. L. 100-50, §23(1), June 3, 1987, 101 Stat. 362, directed Secretary, through the Office of Educational Research and Improvement, to conduct survey over 5-year period ending Sept. 30, 1991, on impact on grades of students of amendments made by Pub. L. 99-498 to subsec. (c) of this section and to submit annual reports to Congress of survey, prior to repeal by Pub. L. 105-332, §6(a), Oct. 31, 1998, 112 Stat. 3127.

DENIAL OF STUDENT ASSISTANCE TO CERTAIN NONCITIZENS

Section 1361 of Pub. L. 99-498 established in Department of Education the Alien Youth Education Opportunity Panel and provided for Panel's composition, duties, reports, administrative and clerical support, compensation and expenses, and access to information, prior to repeal by Pub. L. 105-332, §6(a), Oct. 31, 1998, 112 Stat. 3127.

FINANCIAL AID TO STUDENTS NOT DEEMED INCOME OR RESOURCES FOR PURPOSES OF CERTAIN SOCIAL SECURITY ACT PROGRAMS

Pub. L. 90-575, title V, §507, Oct. 16, 1968, 82 Stat. 1063, as amended by Pub. L. 96-88, title III, §301(a)(1), Oct. 17, 1979, 93 Stat. 677, provided that: “For the purpose of any program assisted under title I, IV, X, XIV, XVI, or XIX of the Social Security Act [subchapters I, IV, X, XIV, XVI, or XIX of chapter 7 of Title 42, The Public Health and Welfare], no grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Secretary of Education shall be considered to be income or resources.”

§ 1091a. Statute of limitations, and State court judgments

(a) In general

(1) It is the purpose of this subsection to ensure that obligations to repay loans and grant overpayments are enforced without regard to any Federal or State statutory, regulatory, or administrative limitation on the period within which debts may be enforced.

(2) Notwithstanding any other provision of statute, regulation, or administrative limitation, no limitation shall terminate the period within which suit may be filed, a judgment may be enforced, or an offset, garnishment, or other action initiated or taken by—

(A) an institution that receives funds under this subchapter and part C of subchapter I of chapter 34 of title 42 that is seeking to collect a refund due from a student on a grant made, or work assistance awarded, under this subchapter and part C of subchapter I of chapter 34 of title 42;

(B) a guaranty agency that has an agreement with the Secretary under section 1078(c) of this title that is seeking the repayment of the amount due from a borrower on a loan made under part B of this subchapter after such guaranty agency reimburses the previous holder of the loan for its loss on account of the default of the borrower;

(C) an institution that has an agreement with the Secretary pursuant to section 1087c or 1087cc(a) of this title that is seeking the repayment of the amount due from a borrower on a loan made under part C or D of this sub-

chapter after the default of the borrower on such loan; or

(D) the Secretary, the Attorney General, or the administrative head of another Federal agency, as the case may be, for payment of a refund due from a student on a grant made under this subchapter and part C of subchapter I of chapter 34 of title 42, or for the repayment of the amount due from a borrower on a loan made under this subchapter and part C of subchapter I of chapter 34 of title 42 that has been assigned to the Secretary under this subchapter and part C of subchapter I of chapter 34 of title 42.

(b) Assessment of costs and other charges

Notwithstanding any provision of State law to the contrary—

(1) a borrower who has defaulted on a loan made under this subchapter and part C of subchapter I of chapter 34 of title 42 shall be required to pay, in addition to other charges specified in this subchapter and part C of subchapter I of chapter 34 of title 42 reasonable collection costs;

(2) in collecting any obligation arising from a loan made under part B of this subchapter, a guaranty agency or the Secretary shall not be subject to a defense raised by any borrower based on a claim of infancy; and

(3) in collecting any obligation arising from a loan made under part D, an institution of higher education that has an agreement with the Secretary pursuant to section 1087cc(a) of this title shall not be subject to a defense raised by any borrower based on a claim of infancy.

(c) State court judgments

A judgment of a State court for the recovery of money provided as grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 that has been assigned or transferred to the Secretary under this subchapter and part C of subchapter I of chapter 34 of title 42 may be registered in any district court of the United States by filing a certified copy of the judgment and a copy of the assignment or transfer. A judgment so registered shall have the same force and effect, and may be enforced in the same manner, as a judgment of the district court of the district in which the judgment is registered.

(d) Special rule

This section shall not apply in the case of a student who is deceased, or to a deceased student's estate or the estate of such student's family. If a student is deceased, then the student's estate or the estate of the student's family shall not be required to repay any financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, including interest paid on the student's behalf, collection costs, or other charges specified in this subchapter and part C of subchapter I of chapter 34 of title 42.

(Pub. L. 89-329, title IV, § 484A, as added Pub. L. 99-498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1482; amended Pub. L. 102-26, § 3(a), Apr. 9, 1991, 105 Stat. 124; Pub. L. 105-244, title IV, § 484, Oct. 7, 1998, 112 Stat. 1737; Pub. L. 110-315, title IV, § 486, Aug. 14, 2008, 122 Stat. 3290.)

PRIOR PROVISIONS

A prior section 1091a, Pub. L. 89-329, title IV, § 484A, as added Pub. L. 99-272, title XVI, § 16033, Apr. 7, 1986, 100 Stat. 355, related to statute of limitations, collection costs, and defense of infancy, prior to the general revision of this part by Pub. L. 99-498.

Another prior section 1091a, Pub. L. 89-329, title V, § 502, as added Pub. L. 90-35, § 2(c), June 29, 1967, 81 Stat. 82; amended Pub. L. 91-230, title IV, § 401(h)(4), title VIII, § 802, Apr. 13, 1970, 84 Stat. 174, 190; Pub. L. 92-318, title I, § 141(c)(1)(A), June 23, 1972, 86 Stat. 285, established the National Advisory Council on Education Professions Development and set forth functions, composition, etc., of the Council, prior to repeal by Pub. L. 94-482, title I, § 151(a)(2), (b), Oct. 12, 1976, 90 Stat. 2151, effective Sept. 30, 1976.

AMENDMENTS

2008—Subsec. (b)(3). Pub. L. 110-315, § 486(1), added par. (3).

Subsec. (d). Pub. L. 110-315, § 486(2), added subsec. (d). 1998—Pub. L. 105-244, § 484(1), inserted “, and State court judgments” after “limitations” in section catchline.

Subsec. (c). Pub. L. 105-244, § 484(2), added subsec. (c). 1991—Subsec. (a). Pub. L. 102-26 amended subsec. (a) generally, substituting provisions eliminating statute of limitations for student loan collections for provisions establishing six year limitations period for collection of such loans.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 3(c) of Pub. L. 102-26, as amended by Pub. L. 102-325, title XV, § 1551, July 23, 1992, 105 Stat. 838, provided that: “The amendments made by this section [amending this section] shall be effective as if enacted by the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272), and shall apply to any actions pending on or after the date of enactment of the Higher Education Technical Amendments of 1991 [Apr. 9, 1991].”

§ 1091b. Institutional refunds

(a) Return of title IV funds

(1) In general

If a recipient of assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 withdraws from an institution during a payment period or period of enrollment in which the recipient began attendance, the amount of grant or loan assistance (other than assistance received under part C of subchapter I of chapter 34 of title 42) to be returned to the title IV programs is calculated according to paragraph (3) and returned in accordance with subsection (b) of this section.

(2) Leave of absence

(A) Leave not treated as withdrawal

In the case of a student who takes 1 or more leaves of absence from an institution for not more than a total of 180 days in any 12-month period, the institution may consider the student as not having withdrawn from the institution during the leave of absence, and not calculate the amount of grant and loan assistance provided under this subchapter and part C of subchapter I of chapter

34 of title 42 that is to be returned in accordance with this section if—

- (i) the institution has a formal policy regarding leaves of absence;
- (ii) the student followed the institution's policy in requesting a leave of absence; and
- (iii) the institution approved the student's request in accordance with the institution's policy.

(B) Consequences of failure to return

If a student does not return to the institution at the expiration of an approved leave of absence that meets the requirements of subparagraph (A), the institution shall calculate the amount of grant and loan assistance provided under this subchapter and part C of subchapter I of chapter 34 of title 42 that is to be returned in accordance with this section based on the day the student withdrew (as determined under subsection (c) of this section).

(3) Calculation of amount of title IV assistance earned

(A) In general

The amount of grant or loan assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 that is earned by the recipient for purposes of this section is calculated by—

- (i) determining the percentage of grant and loan assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 that has been earned by the student, as described in subparagraph (B); and
- (ii) applying such percentage to the total amount of such grant and loan assistance that was disbursed (and that could have been disbursed) to the student, or on the student's behalf, for the payment period or period of enrollment for which the assistance was awarded, as of the day the student withdrew.

(B) Percentage earned

For purposes of subparagraph (A)(i), the percentage of grant or loan assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 that has been earned by the student is—

- (i) equal to the percentage of the payment period or period of enrollment for which assistance was awarded that was completed (as determined in accordance with subsection (d) of this section) as of the day the student withdrew, provided that such date occurs on or before the completion of 60 percent of the payment period or period of enrollment; or
- (ii) 100 percent, if the day the student withdrew occurs after the student has completed (as determined in accordance with subsection (d)) 60 percent of the payment period or period of enrollment.

(C) Percentage and amount not earned

For purposes of subsection (b) of this section, the amount of grant and loan assistance awarded under this subchapter and part C of subchapter I of chapter 34 of title 42

that has not been earned by the student shall be calculated by—

- (i) determining the complement of the percentage of grant assistance under subparts 1 and 3 of part A, or loan assistance under parts B, C, and D, that has been earned by the student described in subparagraph (B); and
- (ii) applying the percentage determined under clause (i) to the total amount of such grant and loan assistance that was disbursed (and that could have been disbursed) to the student, or on the student's behalf, for the payment period or period of enrollment, as of the day the student withdrew.

(4) Differences between amounts earned and amounts received

(A) In general

After determining the eligibility of the student for a late disbursement or post-withdrawal disbursement (as required in regulations prescribed by the Secretary), the institution of higher education shall contact the borrower and obtain confirmation that the loan funds are still required by the borrower. In making such contact, the institution shall explain to the borrower the borrower's obligation to repay the funds following any such disbursement. The institution shall document in the borrower's file the result of such contact and the final determination made concerning such disbursement.

(B) Return

If the student has received more grant or loan assistance than the amount earned as calculated under paragraph (3)(A), the unearned funds shall be returned by the institution or the student, or both, as may be required under paragraphs (1) and (2) of subsection (b) of this section, to the programs under this subchapter and part C of subchapter I of chapter 34 of title 42 in the order specified in subsection (b)(3) of this section.

(b) Return of title IV program funds

(1) Responsibility of the institution

The institution shall return not later than 45 days from the determination of withdrawal, in the order specified in paragraph (3), the lesser of—

- (A) the amount of grant and loan assistance awarded under this subchapter and part C of subchapter I of chapter 34 of title 42 that has not been earned by the student, as calculated under subsection (a)(3)(C) of this section; or
- (B) an amount equal to—

- (i) the total institutional charges incurred by the student for the payment period or period of enrollment for which such assistance was awarded; multiplied by
- (ii) the percentage of grant and loan assistance awarded under this subchapter and part C of subchapter I of chapter 34 of title 42 that has not been earned by the student, as described in subsection (a)(3)(C)(i) of this section.

(2) Responsibility of the student**(A) In general**

The student shall return assistance that has not been earned by the student as described in subsection (a)(3)(C)(ii) of this section in the order specified in paragraph (3) minus the amount the institution is required to return under paragraph (1).

(B) Special rule

The student (or parent in the case of funds due to a loan borrowed by a parent under part B or C of this subchapter) shall return or repay, as appropriate, the amount determined under subparagraph (A) to—

(i) a loan program under this subchapter and part C of subchapter I of chapter 34 of title 42 in accordance with the terms of the loan; and

(ii) a grant program under this subchapter and part C of subchapter I of chapter 34 of title 42, as an overpayment of such grant and shall be subject to—

(I) repayment arrangements satisfactory to the institution; or

(II) overpayment collection procedures prescribed by the Secretary.

(C) Grant overpayment requirements**(i) In general**

Notwithstanding subparagraphs (A) and (B), a student shall only be required to return grant assistance in the amount (if any) by which—

(I) the amount to be returned by the student (as determined under subparagraphs (A) and (B)), exceeds

(II) 50 percent of the total grant assistance received by the student under this subchapter and part C of subchapter I of chapter 34 of title 42 for the payment period or period of enrollment.

(ii) Minimum

A student shall not be required to return amounts of \$50 or less.

(D) Waivers of Federal Pell Grant repayment by students affected by disasters

The Secretary may waive the amounts that students are required to return under this section with respect to Federal Pell Grants if the withdrawals on which the returns are based are withdrawals by students—

(i) who were residing in, employed in, or attending an institution of higher education that is located in an area in which the President has declared that a major disaster exists, in accordance with section 5170 of title 42;

(ii) whose attendance was interrupted because of the impact of the disaster on the student or the institution; and

(iii) whose withdrawal ended within the academic year during which the designation occurred or during the next succeeding academic year.

(E) Waivers of grant assistance repayment by students affected by disasters

In addition to the waivers authorized by subparagraph (D), the Secretary may waive

the amounts that students are required to return under this section with respect to any other grant assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 if the withdrawals on which the returns are based are withdrawals by students—

(i) who were residing in, employed in, or attending an institution of higher education that is located in an area in which the President has declared that a major disaster exists, in accordance with section 5170 of title 42;

(ii) whose attendance was interrupted because of the impact of the disaster on the student or the institution; and

(iii) whose withdrawal ended within the academic year during which the designation occurred or during the next succeeding academic year.

(3) Order of return of title IV funds**(A) In general**

Excess funds returned by the institution or the student, as appropriate, in accordance with paragraph (1) or (2), respectively, shall be credited to outstanding balances on loans made under this subchapter and part C of subchapter I of chapter 34 of title 42 to the student or on behalf of the student for the payment period or period of enrollment for which a return of funds is required. Such excess funds shall be credited in the following order:

(i) To outstanding balances on loans made under section 1078-8 of this title for the payment period or period of enrollment for which a return of funds is required.

(ii) To outstanding balances on loans made under section 1078 of this title for the payment period or period of enrollment for which a return of funds is required.

(iii) To outstanding balances on unsubsidized loans (other than parent loans) made under part C of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(iv) To outstanding balances on subsidized loans made under part C of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(v) To outstanding balances on loans made under part D of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(vi) To outstanding balances on loans made under section 1078-2 of this title for the payment period or period of enrollment for which a return of funds is required.

(vii) To outstanding balances on parent loans made under part C of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(B) Remaining excesses

If excess funds remain after repaying all outstanding loan amounts, the remaining

excess shall be credited in the following order:

- (i) To awards under subpart 1 of part A of this subchapter for the payment period or period of enrollment for which a return of funds is required.
- (ii) To awards under subpart 3 of part A of this subchapter for the payment period or period of enrollment for which a return of funds is required.
- (iii) To other assistance awarded under this subchapter and part C of subchapter I of chapter 34 of title 42 for which a return of funds is required.

(c) Withdrawal date

(1) In general

In this section, the term “day the student withdrew”—

(A) is the date that the institution determines—

- (i) the student began the withdrawal process prescribed by the institution;
- (ii) the student otherwise provided official notification to the institution of the intent to withdraw; or
- (iii) in the case of a student who does not begin the withdrawal process or otherwise notify the institution of the intent to withdraw, the date that is the mid-point of the payment period for which assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 was disbursed or a later date documented by the institution; or

(B) for institutions required to take attendance, is determined by the institution from such attendance records.

(2) Special rule

Notwithstanding paragraph (1), if the institution determines that a student did not begin the withdrawal process, or otherwise notify the institution of the intent to withdraw, due to illness, accident, grievous personal loss, or other such circumstances beyond the student's control, the institution may determine the appropriate withdrawal date.

(d) Percentage of the payment period or period of enrollment completed

For purposes of subsection (a)(3)(B) of this section, the percentage of the payment period or period of enrollment for which assistance was awarded that was completed, is determined—

- (1) in the case of a program that is measured in credit hours, by dividing the total number of calendar days comprising the payment period or period of enrollment for which assistance is awarded into the number of calendar days completed in that period as of the day the student withdrew; and
- (2) in the case of a program that is measured in clock hours, by dividing the total number of clock hours comprising the payment period or period of enrollment for which assistance is awarded into the number of clock hours scheduled to be completed by the student in that period as of the day the student withdrew.

(e) Effective date

The provisions of this section shall take effect 2 years after October 7, 1998. An institution of

higher education may choose to implement such provisions prior to that date.

(Pub. L. 89-329, title IV, § 484B, as added Pub. L. 102-325, title IV, § 485(a), July 23, 1992, 106 Stat. 619; amended Pub. L. 103-208, § 2(h)(26), (27), Dec. 20, 1993, 107 Stat. 2477; Pub. L. 105-244, title IV, § 485, Oct. 7, 1998, 112 Stat. 1737; Pub. L. 109-66, § 2, Sept. 21, 2005, 119 Stat. 1999; Pub. L. 109-67, § 2, Sept. 21, 2005, 119 Stat. 2001; Pub. L. 109-171, title VIII, § 8022, Feb. 8, 2006, 120 Stat. 178.)

REFERENCES IN TEXT

Title IV, referred to in subsecs. (a) and (b), means title IV of the Higher Education Act of 1965, Pub. L. 89-329, which is classified generally to this subchapter and part C (§ 2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of title IV to the Code, see Tables.

PRIOR PROVISIONS

A prior section 1091b, Pub. L. 89-329, title V, § 503, as added Pub. L. 90-35, § 2(c), June 29, 1967, 81 Stat. 83; amended Pub. L. 92-318, title IV, § 451(a), June 23, 1972, 86 Stat. 344, authorized the Commissioner to appraise and annually report on existing and future education personnel needs, prior to repeal, effective Sept. 30, 1976, by Pub. L. 94-482, title I, § 151(a)(2), (b), Oct. 12, 1976, 90 Stat. 2151.

AMENDMENTS

2006—Subsec. (a)(2)(A). Pub. L. 109-171, § 8022(1), substituted “1 or more leaves of” for “a leave of” in introductory provisions.

Subsec. (a)(3)(B)(ii). Pub. L. 109-171, § 8022(2), inserted “(as determined in accordance with subsection (d))” after “student has completed”.

Subsec. (a)(3)(C)(i). Pub. L. 109-171, § 8022(3), substituted “grant assistance under subparts 1 and 3 of part A, or loan assistance under parts B, C, and D,” for “grant or loan assistance under this subchapter and part C of subchapter I of chapter 34 of title 42”.

Subsec. (a)(4)(A). Pub. L. 109-171, § 8022(4), amended heading and text of subpar. (A) generally. Prior to amendment, text read as follows: “If the student has received less grant or loan assistance than the amount earned as calculated under subparagraph (A) of paragraph (3), the institution of higher education shall comply with the procedures for late disbursement specified by the Secretary in regulations.”

Subsec. (b)(1). Pub. L. 109-171, § 8022(5), inserted “not later than 45 days from the determination of withdrawal” after “return” in introductory provisions.

Subsec. (b)(2)(C). Pub. L. 109-171, § 8022(6), amended heading and text of subpar. (C) generally. Prior to amendment, text read as follows: “Notwithstanding subparagraphs (A) and (B), a student shall not be required to return 50 percent of the grant assistance received by the student under this subchapter and part C of subchapter I of chapter 34 of title 42, for a payment period or period of enrollment, that is the responsibility of the student to repay under this section.”

Subsec. (d). Pub. L. 109-171, § 8022(7), (8), in introductory provisions, substituted “(a)(3)(B)” for “(a)(3)(B)(i)” and, in par. (2), substituted “clock hours scheduled to be completed by the student in that period as of the day the student withdrew.” for “clock hours—

“(A) completed by the student in that period as of the day the student withdrew; or

“(B) scheduled to be completed as of the day the student withdrew, if the clock hours completed in the period are not less than a percentage, to be determined by the Secretary in regulations, of the hours that were scheduled to be completed by the student in the period.”

2005—Subsec. (b)(2)(D). Pub. L. 109-66 added subpar. (D).

Subsec. (b)(2)(E). Pub. L. 109-67 added subpar. (E).

1998—Pub. L. 105-244 amended section catchline and text generally. Prior to amendment, section consisted of subsecs. (a) to (c) requiring each institution of higher education participating in a program under this subchapter and part C of subchapter I of chapter 34 of title 42 to have in effect a fair and equitable refund policy for refunding unearned tuition, fees, room and board, and other charges to students or parents who received grant or loan assistance under this subchapter or part C of subchapter I of chapter 34 of title 42.

1993—Subsec. (a). Pub. L. 103-208, § 2(h)(26), substituted “grant or loan assistance” for “grant, loan, or work assistance” in introductory provisions.

Subsec. (b)(3). Pub. L. 103-208, § 2(h)(27), substituted “subsection (c) of this section” for “subsection (d) of this section”.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109-171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

§ 1091c. Readmission requirements for service-members

(a) Definition of service in the uniformed services

In this section, the term “service in the uniformed services” means service (whether voluntary or involuntary) on active duty in the Armed Forces, including such service by a member of the National Guard or Reserve, for a period of more than 30 days under a call or order to active duty of more than 30 days.

(b) Discrimination against students who serve in the uniformed services prohibited

A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform, service in the uniformed services shall not be denied readmission to an institution of higher education on the basis of that membership, application for membership, performance of service, application for service, or obligation.

(c) Readmission procedures

(1) In general

Any student whose absence from an institution of higher education is necessitated by reason of service in the uniformed services shall be entitled to readmission to the institution of higher education if—

(A) the student (or an appropriate officer of the Armed Forces or official of the Department of Defense) gives advance written or verbal notice of such service to the appropriate official at the institution of higher education;

(B) the cumulative length of the absence and of all previous absences from that insti-

tution of higher education by reason of service in the uniformed services does not exceed five years; and

(C) except as otherwise provided in this section, the student submits a notification of intent to reenroll in the institution of higher education in accordance with the provisions of paragraph (4).

(2) Exceptions

(A) Military necessity

No notice is required under paragraph (1)(A) if the giving of such notice is precluded by military necessity, such as—

(i) a mission, operation, exercise, or requirement that is classified; or

(ii) a pending or ongoing mission, operation, exercise, or requirement that may be compromised or otherwise adversely affected by public knowledge.

(B) Failure to give advance notice

Any student (or an appropriate officer of the Armed Forces or official of the Department of Defense) who did not give advance written or verbal notice of service to the appropriate official at the institution of higher education in accordance with paragraph (1)(A) may meet the notice requirement by submitting, at the time the student seeks readmission, an attestation to the student's institution of higher education that the student performed service in the uniformed services that necessitated the student's absence from the institution of higher education.

(3) Applicability

This section shall apply to a student who is absent from an institution of higher education by reason of service in the uniformed services if such student's cumulative period of service in the Armed Forces (including the National Guard or Reserve), with respect to the institution of higher education for which a student seeks readmission, does not exceed five years, except that any such period of service shall not include any service—

(A) that is required, beyond five years, to complete an initial period of obligated service;

(B) during which such student was unable to obtain orders releasing such student from a period of service in the uniformed services before the expiration of such five-year period and such inability was through no fault of such student; or

(C) performed by a member of the Armed Forces (including the National Guard and Reserves) who is—

(i) ordered to or retained on active duty under section 688, 12301(a), 12301(g), 12302, 12304, or 12305 of title 10 or under section 331, 332, 359, 360, 367, or 712 of title 14;

(ii) ordered to or retained on active duty (other than for training) under any provision of law because of a war or national emergency declared by the President or the Congress, as determined by the Secretary concerned;

(iii) ordered to active duty (other than for training) in support, as determined by

the Secretary concerned, of an operational mission for which personnel have been ordered to active duty under section 12304 of title 10;

(iv) ordered to active duty in support, as determined by the Secretary concerned, of a critical mission or requirement of the Armed Forces (including the National Guard or Reserve); or

(v) called into Federal service as a member of the National Guard under chapter 15 of title 10 or section 12406 of title 10.

(4) Notification of intent to return

(A) In general

Except as provided in subparagraph (B), a student referred to in subsection (a) shall, upon the completion of a period of service in the uniformed services, notify the institution of higher education of the student's intent to return to the institution not later than three years after the completion of the period of service.

(B) Hospitalization or convalescence

A student who is hospitalized for or convalescing from an illness or injury incurred in or aggravated during the performance of service in the uniformed services shall notify the institution of higher education of the student's intent to return to the institution not later than two years after the end of the period that is necessary for recovery from such illness or injury.

(C) Special rule

A student who fails to apply for readmission within the period described in this section shall not automatically forfeit such eligibility for readmission to the institution of higher education, but shall be subject to the institution of higher education's established leave of absence policy and general practices.

(5) Documentation

(A) In general

A student who submits an application for readmission to an institution of higher education under this section shall provide to the institution of higher education documentation to establish that—

(i) the student has not exceeded the service limitations established under this section; and

(ii) the student's eligibility for readmission has not been terminated due to an exception in subsection (d).

(B) Prohibited documentation demands

An institution of higher education may not delay or attempt to avoid a readmission of a student under this section by demanding documentation that does not exist, or is not readily available, at the time of readmission.

(6) No change in academic status

A student who is readmitted to an institution of higher education under this section shall be readmitted with the same academic status as such student had when such student

last attended the institution of higher education.

(d) Exception from readmission eligibility

A student's eligibility for readmission to an institution of higher education under this section by reason of such student's service in the uniformed services terminates upon the occurrence of any of the following events:

(1) A separation of such person from the Armed Forces (including the National Guard and Reserves) with a dishonorable or bad conduct discharge.

(2) A dismissal of such person permitted under section 1161(a) of title 10.

(3) A dropping of such person from the rolls pursuant to section 1161(b) of title 10.

(Pub. L. 89-329, title IV, §484C, as added Pub. L. 110-315, title IV, §487, Aug. 14, 2008, 122 Stat. 3290.)

PRIOR PROVISIONS

Prior sections 1091c to 1091f were repealed, effective Sept. 30, 1976, by Pub. L. 94-482, title I, §151(a)(2), (b), Oct. 12, 1976, 90 Stat. 2151.

Section 1091c, Pub. L. 89-329, title V, §504, as added Pub. L. 90-35, §2(c), June 29, 1967, 81 Stat. 83; amended Pub. L. 90-575, title II, §231(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92-318, title I, §141(a)(1)(B), (c)(1)(B), June 23, 1972, 86 Stat. 284, 285, authorized the Commissioner to make grants or contracts with State or local educational agencies for attracting qualified persons to the field of education.

Section 1091d, Pub. L. 89-329, title V, §505, as added Pub. L. 90-35, §2(c), June 29, 1967, 81 Stat. 84, required the Commissioner to consult with the National Science Foundation and the National Foundation on the Arts and the Humanities in development and review of programs.

Section 1091e, Pub. L. 89-329, title V, §506, as added Pub. L. 90-35, §2(c), June 29, 1967, 81 Stat. 84, authorized transfer of funds for programs for education professions development.

Section 1091f, Pub. L. 89-329, title V, §507, as added Pub. L. 90-35, §2(c), June 29, 1967, 81 Stat. 84, authorized employment of experts and consultants and set forth provisions for compensation and travel expenses.

§ 1092. Institutional and financial assistance information for students

(a) Information dissemination activities

(1) Each eligible institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall carry out information dissemination activities for prospective and enrolled students (including those attending or planning to attend less than full time) regarding the institution and all financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42. The information required by this section shall be produced and be made readily available upon request, through appropriate publications, mailings, and electronic media, to an enrolled student and to any prospective student. Each eligible institution shall, on an annual basis, provide to all enrolled students a list of the information that is required to be provided by institutions to students by this section and section 444 of the General Education Provisions Act [20 U.S.C. 1232g] (commonly known as the "Family Educational Rights and Privacy Act of 1974"), together with a statement of the procedures re-

quired to obtain such information. The information required by this section shall accurately describe—

(A) the student financial assistance programs available to students who enroll at such institution;

(B) the methods by which such assistance is distributed among student recipients who enroll at such institution;

(C) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such application;

(D) the rights and responsibilities of students receiving financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42;

(E) the cost of attending the institution, including (i) tuition and fees, (ii) books and supplies, (iii) estimates of typical student room and board costs or typical commuting costs, and (iv) any additional cost of the program in which the student is enrolled or expresses a specific interest;

(F) a statement of—

(i) the requirements of any refund policy with which the institution is required to comply;

(ii) the requirements under section 1091b of this title for the return of grant or loan assistance provided under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(iii) the requirements for officially withdrawing from the institution;

(G) the academic program of the institution, including (i) the current degree programs and other educational and training programs, (ii) the instructional, laboratory, and other physical plant facilities which relate to the academic program, (iii) the faculty and other instructional personnel, and (iv) any plans by the institution for improving the academic program of the institution;

(H) each person designated under subsection (c) of this section, and the methods by which and locations in which any person so designated may be contacted by students and prospective students who are seeking information required by this subsection;

(I) special facilities and services available to students with disabilities;

(J) the names of associations, agencies, or governmental bodies which accredit, approve, or license the institution and its programs, and the procedures under which any current or prospective student may obtain or review upon request a copy of the documents describing the institution's accreditation, approval, or licensing;

(K) the standards which the student must maintain in order to be considered to be making satisfactory progress, pursuant to section 1091(a)(2) of this title;

(L) the completion or graduation rate of certificate- or degree-seeking, full-time, undergraduate students entering such institutions;

(M) the terms and conditions of the loans that students receive under parts B, C, and D;

(N) that enrollment in a program of study abroad approved for credit by the home insti-

tution may be considered enrollment in the home institution for purposes of applying for Federal student financial assistance;

(O) the campus crime report prepared by the institution pursuant to subsection (f) of this section, including all required reporting categories;

(P) institutional policies and sanctions related to copyright infringement, including—

(i) an annual disclosure that explicitly informs students that unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the students to civil and criminal liabilities;

(ii) a summary of the penalties for violation of Federal copyright laws; and

(iii) a description of the institution's policies with respect to unauthorized peer-to-peer file sharing, including disciplinary actions that are taken against students who engage in unauthorized distribution of copyrighted materials using the institution's information technology system;

(Q) student body diversity at the institution, including information on the percentage of enrolled, full-time students who—

(i) are male;

(ii) are female;

(iii) receive a Federal Pell Grant; and

(iv) are a self-identified member of a major racial or ethnic group;

(R) the placement in employment of, and types of employment obtained by, graduates of the institution's degree or certificate programs, gathered from such sources as alumni surveys, student satisfaction surveys, the National Survey of Student Engagement, the Community College Survey of Student Engagement, State data systems, or other relevant sources;

(S) the types of graduate and professional education in which graduates of the institution's four-year degree programs enrolled, gathered from such sources as alumni surveys, student satisfaction surveys, the National Survey of Student Engagement, State data systems, or other relevant sources;

(T) the fire safety report prepared by the institution pursuant to subsection (i);

(U) the retention rate of certificate- or degree-seeking, first-time, full-time, undergraduate students entering such institution; and

(V) institutional policies regarding vaccinations.

(2) For the purpose of this section, the term "prospective student" means any individual who has contacted an eligible institution requesting information concerning admission to that institution.

(3) In calculating the completion or graduation rate under subparagraph (L) of paragraph (1) of this subsection or under subsection (e) of this section, a student shall be counted as a completion or graduation if, within 150 percent of the normal time for completion of or graduation from the program, the student has completed or graduated from the program, or enrolled in any program of an eligible institution

for which the prior program provides substantial preparation. The information required to be disclosed under such subparagraph—

(A) shall be made available by July 1 each year to enrolled students and prospective students prior to the students enrolling or entering into any financial obligation; and

(B) shall cover the one-year period ending on August 31 of the preceding year.

(4) For purposes of this section, institutions may—

(A) exclude from the information disclosed in accordance with subparagraph (L) of paragraph (1) the completion or graduation rates of students who leave school to serve in the Armed Forces, on official church missions, or with a recognized foreign aid service of the Federal Government; or

(B) in cases where the students described in subparagraph (A) represent 20 percent or more of the certificate- or degree-seeking, full-time, undergraduate students at the institution, recalculate the completion or graduation rates of such students by excluding from the calculation described in paragraph (3) the time period during which such students were not enrolled due to their service in the Armed Forces, on official church missions, or with a recognized foreign aid service of the Federal Government.

(5) The Secretary shall permit any institution of higher education that is a member of an athletic association or athletic conference that has voluntarily published completion or graduation rate data or has agreed to publish data that, in the opinion of the Secretary, is substantially comparable to the information required under this subsection, to use such data to satisfy the requirements of this subsection.

(6) Each institution may provide supplemental information to enrolled and prospective students showing the completion or graduation rate for students described in paragraph (4) or for students transferring into the institution or information showing the rate at which students transfer out of the institution.

(7)(A)(i) Subject to clause (ii), the information disseminated under paragraph (1)(L), or reported under subsection (e), shall be disaggregated by gender, by each major racial and ethnic subgroup, by recipients of a Federal Pell Grant, by recipients of a loan made under part B or C (other than a loan made under section 1078-8 of this title or a Federal Direct Unsubsidized Stafford Loan) who did not receive a Federal Pell Grant, and by recipients of neither a Federal Pell Grant nor a loan made under part B or C (other than a loan made under section 1078-8 of this title or a Federal Direct Unsubsidized Stafford Loan), if the number of students in such subgroup or with such status is sufficient to yield statistically reliable information and reporting will not reveal personally identifiable information about an individual student. If such number is not sufficient for such purposes, then the institution shall note that the institution enrolled too few of such students to so disclose or report with confidence and confidentiality.

(ii) The requirements of clause (i) shall not apply to two-year, degree-granting institutions

of higher education until academic year 2011-2012.

(B)(i) In order to assist two-year degree-granting institutions of higher education in meeting the requirements of paragraph (1)(L) and subsection (e), the Secretary, in consultation with the Commissioner for Education Statistics, shall, not later than 90 days after August 14, 2008, convene a group of representatives from diverse institutions of higher education, experts in the field of higher education policy, state¹ higher education officials, students, and other stakeholders in the higher education community, to develop recommendations regarding the accurate calculation and reporting of the information required to be disseminated or reported under paragraph (1)(L) and subsection (e) by two-year, degree-granting institutions of higher education. In developing such recommendations, the group of representatives shall consider the mission and role of two-year degree-granting institutions of higher education, and may recommend additional or alternative measures of student success for such institutions in light of the mission and role of such institutions.

(ii) The Secretary shall widely disseminate the recommendations required under this subparagraph to two-year, degree-granting institutions of higher education, the public, and the authorizing committees not later than 18 months after the first meeting of the group of representatives convened under clause (i).

(iii) The Secretary shall use the recommendations from the group of representatives convened under clause (i) to provide technical assistance to two-year, degree-granting institutions of higher education in meeting the requirements of paragraph (1)(L) and subsection (e).

(iv) The Secretary may modify the information required to be disseminated or reported under paragraph (1)(L) or subsection (e) by a two-year, degree-granting institution of higher education—

(I) based on the recommendations received under this subparagraph from the group of representatives convened under clause (i);

(II) to include additional or alternative measures of student success if the goals of the provisions of paragraph (1)(L) and subsection (e) can be met through additional means or comparable alternatives; and

(III) during the period beginning on August 14, 2008, and ending on June 30, 2011.

(b) Exit counseling for borrowers

(1)(A) Each eligible institution shall, through financial aid offices or otherwise, provide counseling to borrowers of loans that are made, insured, or guaranteed under part B (other than loans made pursuant to section 1078-3 of this title or loans under section 1078-2 of this title made on behalf of a student) or made under part C (other than Federal Direct Consolidation Loans or Federal Direct PLUS Loans made on behalf of a student) or made under part D of this subchapter prior to the completion of the course of study for which the borrower enrolled at the institution or at the time of departure from

¹ So in original. Probably should be capitalized.

such institution. The counseling required by this subsection shall include—

- (i) information on the repayment plans available, including a description of the different features of each plan and sample information showing the average anticipated monthly payments, and the difference in interest paid and total payments, under each plan;
- (ii) debt management strategies that are designed to facilitate the repayment of such indebtedness;
- (iii) an explanation that the borrower has the options to prepay each loan, pay each loan on a shorter schedule, and change repayment plans;
- (iv) for any loan forgiveness or cancellation provision of this subchapter and part C of subchapter I of chapter 34 of title 42, a general description of the terms and conditions under which the borrower may obtain full or partial forgiveness or cancellation of the principal and interest, and a copy of the information provided by the Secretary under section 1092(d) of this title;
- (v) for any forbearance provision of this subchapter and part C of subchapter I of chapter 34 of title 42, a general description of the terms and conditions under which the borrower may defer repayment of principal or interest or be granted forbearance, and a copy of the information provided by the Secretary under section 1092(d) of this title;
- (vi) the consequences of defaulting on a loan, including adverse credit reports, delinquent debt collection procedures under Federal law, and litigation;
- (vii) information on the effects of using a consolidation loan under section 1078-3 of this title or a Federal Direct Consolidation Loan to discharge the borrower's loans under parts B, C, and D, including at a minimum—
 - (I) the effects of consolidation on total interest to be paid, fees to be paid, and length of repayment;
 - (II) the effects of consolidation on a borrower's underlying loan benefits, including grace periods, loan forgiveness, cancellation, and deferment opportunities;
 - (III) the option of the borrower to prepay the loan or to change repayment plans; and
 - (IV) that borrower benefit programs may vary among different lenders;
- (viii) a general description of the types of tax benefits that may be available to borrowers; and
- (ix) a notice to borrowers about the availability of the National Student Loan Data System and how the system can be used by a borrower to obtain information on the status of the borrower's loans; and

(B) In the case of borrower who leaves an institution without the prior knowledge of the institution, the institution shall attempt to provide the information described in subparagraph (A) to the student in writing.

(2)(A) Each eligible institution shall require that the borrower of a loan made under part B, C, or D of this subchapter submit to the institution, during the exit interview required by this subsection—

- (i) the borrower's expected permanent address after leaving the institution (regardless of the reason for leaving);
- (ii) the name and address of the borrower's expected employer after leaving the institution;
- (iii) the address of the borrower's next of kin; and
- (iv) any corrections in the institution's records relating the borrower's name, address, social security number, references, and driver's license number.

(B) The institution shall, within 60 days after the interview, forward any corrected or completed information received from the borrower to the guaranty agency indicated on the borrower's student aid records.

(C) Nothing in this subsection shall be construed to prohibit an institution of higher education from utilizing electronic means to provide personalized exit counseling.

(c) Financial assistance information personnel

Each eligible institution shall designate an employee or group of employees who shall be available on a full-time basis to assist students or potential students in obtaining information as specified in subsection (a) of this section. The Secretary may, by regulation, waive the requirement that an employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution in which the total enrollment, or the portion of the enrollment participating in programs under this subchapter and part C of subchapter I of chapter 34 of title 42 at that institution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisions of this section.

(d) Departmental publication of descriptions of assistance programs

(1) The Secretary shall make available to eligible institutions, eligible lenders, and secondary schools descriptions of Federal student assistance programs including the rights and responsibilities of student and institutional participants, in order to (A) assist students in gaining information through institutional sources, and (B) assist institutions in carrying out the provisions of this section, so that individual and institutional participants will be fully aware of their rights and responsibilities under such programs. In particular, such information shall include information to enable students and prospective students to assess the debt burden and monthly and total repayment obligations that will be incurred as a result of receiving loans of varying amounts under this subchapter and part C of subchapter I of chapter 34 of title 42. Such information shall also include information on the various payment options available for student loans, including income-sensitive and income-based repayment plans for loans made, insured, or guaranteed under part B and income-contingent and income-based repayment plans for loans made under part C. In addition, such

information shall include information to enable borrowers to assess the practical consequences of loan consolidation, including differences in deferment eligibility, interest rates, monthly payments, and finance charges, and samples of loan consolidation profiles to illustrate such consequences. The Secretary shall provide information concerning the specific terms and conditions under which students may obtain partial or total cancellation or defer repayment of loans for service, shall indicate (in terms of the Federal minimum wage) the maximum level of compensation and allowances that a student borrower may receive from a tax-exempt organization to qualify for a deferment, and shall explicitly state that students may qualify for such partial cancellations or deferments when they serve as a paid employee of a tax-exempt organization. The Secretary shall also provide information on loan forbearance, including the increase in debt that results from capitalization of interest. Such information shall be provided by eligible institutions and eligible lenders at any time that information regarding loan availability is provided to any student.

(2) The Secretary, to the extent the information is available, shall compile information describing State and other prepaid tuition programs and savings programs and disseminate such information to States, eligible institutions, students, and parents in departmental publications.

(3) The Secretary, to the extent practicable, shall update the Department's Internet site to include direct links to databases that contain information on public and private financial assistance programs. The Secretary shall only provide direct links to databases that can be accessed without charge and shall make reasonable efforts to verify that the databases included in a direct link are not providing fraudulent information. The Secretary shall prominently display adjacent to any such direct link a disclaimer indicating that a direct link to a database does not constitute an endorsement or recommendation of the database, the provider of the database, or any services or products of such provider. The Secretary shall provide additional direct links to information resources from which students may obtain information about fraudulent and deceptive practices in the provision of services related to student financial aid.

(4) The Secretary shall widely publicize the location of the information described in paragraph (1) among the public, eligible institutions, and eligible lenders, and promote the use of such information by prospective students, enrolled students, families of prospective and enrolled students, and borrowers.

(e) Disclosures required with respect to athletically related student aid

(1) Each institution of higher education which participates in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 and is attended by students receiving athletically related student aid shall annually submit a report to the Secretary which contains—

(A) the number of students at the institution of higher education who received athletically

related student aid broken down by race and sex in the following sports: basketball, football, baseball, cross country/track, and all other sports combined;

(B) the number of students at the institution of higher education, broken down by race and sex;

(C) the completion or graduation rate for students at the institution of higher education who received athletically related student aid broken down by race and sex in the following sports: basketball, football, baseball, cross country/track and all other sports combined;

(D) the completion or graduation rate for students at the institution of higher education, broken down by race and sex;

(E) the average completion or graduation rate for the 4 most recent completing or graduating classes of students at the institution of higher education who received athletically related student aid broken down by race and sex in the following categories: basketball, football, baseball, cross country/track, and all other sports combined; and

(F) the average completion or graduation rate for the 4 most recent completing or graduating classes of students at the institution of higher education broken down by race and sex.

(2) When an institution described in paragraph (1) of this subsection offers a potential student athlete athletically related student aid, such institution shall provide to the student and the student's parents, guidance counselor, and coach the information contained in the report submitted by such institution pursuant to paragraph (1). If the institution is a member of a national collegiate athletic association that compiles graduation rate data on behalf of the association's member institutions that the Secretary determines is substantially comparable to the information described in paragraph (1), the distribution of the compilation of such data to all secondary schools in the United States shall fulfill the responsibility of the institution to provide information to a prospective student athlete's guidance counselor and coach.

(3) For purposes of this subsection, institutions may—

(A) exclude from the reporting requirements under paragraphs (1) and (2) the completion or graduation rates of students and student athletes who leave school to serve in the Armed Forces, on official church missions, or with a recognized foreign aid service of the Federal Government; or

(B) in cases where the students described in subparagraph (A) represent 20 percent or more of the certificate- or degree-seeking, full-time, undergraduate students at the institution, calculate the completion or graduation rates of such students by excluding from the calculations described in paragraph (1) the time period during which such students were not enrolled due to their service in the Armed Forces, on official church missions, or with a recognized foreign aid service of the Federal Government.

(4) Each institution of higher education described in paragraph (1) may provide supplemental information to students and the Sec-

retary showing the completion or graduation rate when such completion or graduation rate includes students transferring into and out of such institution.

(5) The Secretary, using the reports submitted under this subsection, shall compile and publish a report containing the information required under paragraph (1) broken down by—

(A) individual institutions of higher education; and

(B) athletic conferences recognized by the National Collegiate Athletic Association and the National Association of Intercollegiate Athletics.

(6) The Secretary shall waive the requirements of this subsection for any institution of higher education that is a member of an athletic association or athletic conference that has voluntarily published completion or graduation rate data or has agreed to publish data that, in the opinion of the Secretary, is substantially comparable to the information required under this subsection.

(7) The Secretary, in conjunction with the National Junior College Athletic Association, shall develop and obtain data on completion or graduation rates from two-year colleges that award athletically related student aid. Such data shall, to the extent practicable, be consistent with the reporting requirements set forth in this section.

(8) For purposes of this subsection, the term “athletically related student aid” means any scholarship, grant, or other form of financial assistance the terms of which require the recipient to participate in a program of intercollegiate athletics at an institution of higher education in order to be eligible to receive such assistance.

(9) The reports required by this subsection shall be due each July 1 and shall cover the 1-year period ending August 31 of the preceding year.

(f) Disclosure of campus security policy and campus crime statistics

(1) Each eligible institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42, other than a foreign institution of higher education, shall on August 1, 1991, begin to collect the following information with respect to campus crime statistics and campus security policies of that institution, and beginning September 1, 1992, and each year thereafter, prepare, publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report containing at least the following information with respect to the campus security policies and campus crime statistics of that institution:

(A) A statement of current campus policies regarding procedures and facilities for students and others to report criminal actions or other emergencies occurring on campus and policies concerning the institution’s response to such reports.

(B) A statement of current policies concerning security and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities.

(C) A statement of current policies concerning campus law enforcement, including—

(i) the law enforcement authority of campus security personnel;

(ii) the working relationship of campus security personnel with State and local law enforcement agencies, including whether the institution has agreements with such agencies, such as written memoranda of understanding, for the investigation of alleged criminal offenses; and

(iii) policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate law enforcement agencies.

(D) A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.

(E) A description of programs designed to inform students and employees about the prevention of crimes.

(F) Statistics concerning the occurrence on campus, in or on noncampus buildings or property, and on public property during the most recent calendar year, and during the 2 preceding calendar years for which data are available—

(i) of the following criminal offenses reported to campus security authorities or local police agencies:

(I) murder;

(II) sex offenses, forcible or nonforcible;

(III) robbery;

(IV) aggravated assault;

(V) burglary;

(VI) motor vehicle theft;

(VII) manslaughter;

(VIII) arson; and

(IX) arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations, and weapons possession; and

(ii) of the crimes described in subclauses (I) through (VIII) of clause (i), of larceny-theft, simple assault, intimidation, and destruction, damage, or vandalism of property, and of other crimes involving bodily injury to any person, in which the victim is intentionally selected because of the actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability of the victim that are reported to campus security authorities or local police agencies, which data shall be collected and reported according to category of prejudice.

(G) A statement of policy concerning the monitoring and recording through local police agencies of criminal activity at off-campus student organizations which are recognized by the institution and that are engaged in by students attending the institution, including those student organizations with off-campus housing facilities.

(H) A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws and a statement of policy regarding the

possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws and a description of any drug or alcohol abuse education programs as required under section 1011i of this title.

(I) A statement advising the campus community where law enforcement agency information provided by a State under section 14071(j)² of title 42, concerning registered sex offenders may be obtained, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address.

(J) A statement of current campus policies regarding immediate emergency response and evacuation procedures, including the use of electronic and cellular communication (if appropriate), which policies shall include procedures to—

(i) immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or staff occurring on the campus, as defined in paragraph (6), unless issuing a notification will compromise efforts to contain the emergency;

(ii) publicize emergency response and evacuation procedures on an annual basis in a manner designed to reach students and staff; and

(iii) test emergency response and evacuation procedures on an annual basis.

(2) Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to campus crimes or campus security.

(3) Each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42, other than a foreign institution of higher education, shall make timely reports to the campus community on crimes considered to be a threat to other students and employees described in paragraph (1)(F) that are reported to campus security or local law police agencies. Such reports shall be provided to students and employees in a manner that is timely and that will aid in the prevention of similar occurrences.

(4)(A) Each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42, other than a foreign institution of higher education, that maintains a police or security department of any kind shall make, keep, and maintain a daily log, written in a form that can be easily understood, recording all crimes reported to such police or security department, including—

(i) the nature, date, time, and general location of each crime; and

(ii) the disposition of the complaint, if known.

(B)(i) All entries that are required pursuant to this paragraph shall, except where disclosure of such information is prohibited by law or such disclosure would jeopardize the confidentiality of the victim, be open to public inspection with-

in two business days of the initial report being made to the department or a campus security authority.

(ii) If new information about an entry into a log becomes available to a police or security department, then the new information shall be recorded in the log not later than two business days after the information becomes available to the police or security department.

(iii) If there is clear and convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until that damage is no longer likely to occur from the release of such information.

(5) On an annual basis, each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42, other than a foreign institution of higher education, shall submit to the Secretary a copy of the statistics required to be made available under paragraph (1)(F). The Secretary shall—

(A) review such statistics and report to the authorizing committees on campus crime statistics by September 1, 2000;

(B) make copies of the statistics submitted to the Secretary available to the public; and

(C) in coordination with representatives of institutions of higher education, identify exemplary campus security policies, procedures, and practices and disseminate information concerning those policies, procedures, and practices that have proven effective in the reduction of campus crime.

(6)(A) In this subsection:

(i) The term “campus” means—

(I) any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner related to, the institution’s educational purposes, including residence halls; and

(II) property within the same reasonably contiguous geographic area of the institution that is owned by the institution but controlled by another person, is used by students, and supports institutional purposes (such as a food or other retail vendor).

(ii) The term “noncampus building or property” means—

(I) any building or property owned or controlled by a student organization recognized by the institution; and

(II) any building or property (other than a branch campus) owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution’s educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution.

(iii) The term “public property” means all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, and is adja-

² See References in Text note below.

cent to a facility owned or controlled by the institution if the facility is used by the institution in direct support of, or in a manner related to the institution's educational purposes.

(B) In cases where branch campuses of an institution of higher education, schools within an institution of higher education, or administrative divisions within an institution are not within a reasonably contiguous geographic area, such entities shall be considered separate campuses for purposes of the reporting requirements of this section.

(7) The statistics described in paragraph (1)(F) shall be compiled in accordance with the definitions used in the uniform crime reporting system of the Department of Justice, Federal Bureau of Investigation, and the modifications in such definitions as implemented pursuant to the Hate Crime Statistics Act. Such statistics shall not identify victims of crimes or persons accused of crimes.

(8)(A) Each institution of higher education participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42, other than a foreign institution of higher education, shall develop and distribute as part of the report described in paragraph (1) a statement of policy regarding—

- (i) such institution's campus sexual assault programs, which shall be aimed at prevention of sex offenses; and
- (ii) the procedures followed once a sex offense has occurred.

(B) The policy described in subparagraph (A) shall address the following areas:

- (i) Education programs to promote the awareness of rape, acquaintance rape, and other sex offenses.
- (ii) Possible sanctions to be imposed following the final determination of an on-campus disciplinary procedure regarding rape, acquaintance rape, or other sex offenses, forcible or nonforcible.
- (iii) Procedures students should follow if a sex offense occurs, including who should be contacted, the importance of preserving evidence as may be necessary to the proof of criminal sexual assault, and to whom the alleged offense should be reported.
- (iv) Procedures for on-campus disciplinary action in cases of alleged sexual assault, which shall include a clear statement that—

(I) the accuser and the accused are entitled to the same opportunities to have others present during a campus disciplinary proceeding; and

(II) both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault.

(v) Informing students of their options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses.

(vi) Notification of students of existing counseling, mental health or student services for victims of sexual assault, both on campus and in the community.

(vii) Notification of students of options for, and available assistance in, changing academic and living situations after an alleged sexual assault incident, if so requested by the victim and if such changes are reasonably available.

(C) Nothing in this paragraph shall be construed to confer a private right of action upon any person to enforce the provisions of this paragraph.

(9) The Secretary shall provide technical assistance in complying with the provisions of this section to an institution of higher education who requests such assistance.

(10) Nothing in this section shall be construed to require the reporting or disclosure of privileged information.

(11) The Secretary shall report to the appropriate committees of Congress each institution of higher education that the Secretary determines is not in compliance with the reporting requirements of this subsection.

(12) For purposes of reporting the statistics with respect to crimes described in paragraph (1)(F), an institution of higher education shall distinguish, by means of separate categories, any criminal offenses that occur—

- (A) on campus;
- (B) in or on a noncampus building or property;
- (C) on public property; and
- (D) in dormitories or other residential facilities for students on campus.

(13) Upon a determination pursuant to section 1094(c)(3)(B) of this title that an institution of higher education has substantially misrepresented the number, location, or nature of the crimes required to be reported under this subsection, the Secretary shall impose a civil penalty upon the institution in the same amount and pursuant to the same procedures as a civil penalty is imposed under section 1094(c)(3)(B) of this title.

(14)(A) Nothing in this subsection may be construed to—

- (i) create a cause of action against any institution of higher education or any employee of such an institution for any civil liability; or
- (ii) establish any standard of care.

(B) Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with this subsection shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this subsection.

(15) The Secretary shall annually report to the authorizing committees regarding compliance with this subsection by institutions of higher education, including an up-to-date report on the Secretary's monitoring of such compliance.

(16) The Secretary may seek the advice and counsel of the Attorney General concerning the development, and dissemination to institutions of higher education, of best practices information about campus safety and emergencies.

(17) Nothing in this subsection shall be construed to permit an institution, or an officer, employee, or agent of an institution, participating in any program under this subchapter and

part C of subchapter I of chapter 34 of title 42 to retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual with respect to the implementation of any provision of this subsection.

(18) This subsection may be cited as the “Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act”.

(g) Data required

(1) In general

Each coeducational institution of higher education that participates in any program under this subchapter and part C of subchapter I of chapter 34 of title 42, and has an intercollegiate athletic program, shall annually, for the immediately preceding academic year, prepare a report that contains the following information regarding intercollegiate athletics:

(A) The number of male and female full-time undergraduates that attended the institution.

(B) A listing of the varsity teams that competed in intercollegiate athletic competition and for each such team the following data:

(i) The total number of participants, by team, as of the day of the first scheduled contest for the team.

(ii) Total operating expenses attributable to such teams, except that an institution may also report such expenses on a per capita basis for each team and expenditures attributable to closely related teams such as track and field or swimming and diving, may be reported together, although such combinations shall be reported separately for men's and women's teams.

(iii) Whether the head coach is male or female and whether the head coach is assigned to that team on a full-time or part-time basis. Graduate assistants and volunteers who serve as head coaches shall be considered to be head coaches for the purposes of this clause.

(iv) The number of assistant coaches who are male and the number of assistant coaches who are female for each team and whether a particular coach is assigned to that team on a full-time or part-time basis. Graduate assistants and volunteers who serve as assistant coaches shall be considered to be assistant coaches for the purposes of this clause.

(C) The total amount of money spent on athletically related student aid, including the value of waivers of educational expenses, separately for men's and women's teams overall.

(D) The ratio of athletically related student aid awarded male athletes to athletically related student aid awarded female athletes.

(E) The total amount of expenditures on recruiting, separately for men's and women's teams overall.

(F) The total annual revenues generated across all men's teams and across all women's teams, except that an institution may also report such revenues by individual team.

(G) The average annual institutional salary of the head coaches of men's teams, across all offered sports, and the average annual institutional salary of the head coaches of women's teams, across all offered sports.

(H) The average annual institutional salary of the assistant coaches of men's teams, across all offered sports, and the average annual institutional salary of the assistant coaches of women's teams, across all offered sports.

(I)(i) The total revenues, and the revenues from football, men's basketball, women's basketball, all other men's sports combined and all other women's sports combined, derived by the institution from the institution's intercollegiate athletics activities.

(ii) For the purpose of clause (i), revenues from intercollegiate athletics activities allocable to a sport shall include (without limitation) gate receipts, broadcast revenues, appearance guarantees and options, concessions, and advertising, but revenues such as student activities fees or alumni contributions not so allocable shall be included in the calculation of total revenues only.

(J)(i) The total expenses, and the expenses attributable to football, men's basketball, women's basketball, all other men's sports combined, and all other women's sports combined, made by the institution for the institution's intercollegiate athletics activities.

(ii) For the purpose of clause (i), expenses for intercollegiate athletics activities allocable to a sport shall include (without limitation) grants-in-aid, salaries, travel, equipment, and supplies, but expenses such as general and administrative overhead not so allocable shall be included in the calculation of total expenses only.

(2) Special rule

For the purposes of paragraph (1)(G), if a coach has responsibilities for more than one team and the institution does not allocate such coach's salary by team, the institution should divide the salary by the number of teams for which the coach has responsibility and allocate the salary among the teams on a basis consistent with the coach's responsibilities for the different teams.

(3) Disclosure of information to students and public

An institution of higher education described in paragraph (1) shall make available to students and potential students, upon request, and to the public, the information contained in the report described in paragraph (1), except that all students shall be informed of their right to request such information.

(4) Submission; report; information availability

(A) On an annual basis, each institution of higher education described in paragraph (1) shall provide to the Secretary, within 15 days of the date that the institution makes available the report under paragraph (1), the information contained in the report.

(B) The Secretary shall ensure that the reports described in subparagraph (A) are made available to the public within a reasonable period of time.

(C) Not later than 180 days after October 7, 1998, the Secretary shall notify all secondary schools in all States regarding the availability of the information made available under paragraph (1), and how such information may be accessed.

(5) “Operating expenses” defined

For the purposes of this subsection, the term “operating expenses” means expenditures on lodging and meals, transportation, officials, uniforms and equipment.

(h) Transfer of credit policies

(1) Disclosure

Each institution of higher education participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall publicly disclose, in a readable and comprehensible manner, the transfer of credit policies established by the institution which shall include a statement of the institution’s current transfer of credit policies that includes, at a minimum—

(A) any established criteria the institution uses regarding the transfer of credit earned at another institution of higher education; and

(B) a list of institutions of higher education with which the institution has established an articulation agreement.

(2) Rule of construction

Nothing in this subsection shall be construed to—

(A) authorize the Secretary or the National Advisory Committee on Institutional Quality and Integrity to require particular policies, procedures, or practices by institutions of higher education with respect to transfer of credit;

(B) authorize an officer or employee of the Department to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any institution of higher education, or over any accrediting agency or association;

(C) limit the application of the General Education Provisions Act [20 U.S.C. 1221 et seq.]; or

(D) create any legally enforceable right on the part of a student to require an institution of higher education to accept a transfer of credit from another institution.

(i) Disclosure of fire safety standards and measures

(1) Annual fire safety reports on student housing required

Each eligible institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 that maintains on-campus student housing facilities shall, on an annual basis, publish a fire safety report, which shall contain information with respect to the campus fire safety practices and standards of that institution, including—

(A) statistics concerning the following in each on-campus student housing facility during the most recent calendar years for which data are available:

(i) the number of fires and the cause of each fire;

(ii) the number of injuries related to a fire that result in treatment at a medical facility;

(iii) the number of deaths related to a fire; and

(iv) the value of property damage caused by a fire;

(B) a description of each on-campus student housing facility fire safety system, including the fire sprinkler system;

(C) the number of regular mandatory supervised fire drills;

(D) policies or rules on portable electrical appliances, smoking, and open flames (such as candles), procedures for evacuation, and policies regarding fire safety education and training programs provided to students, faculty, and staff; and

(E) plans for future improvements in fire safety, if determined necessary by such institution.

(2) Report to the Secretary

Each institution described in paragraph (1) shall, on an annual basis, submit to the Secretary a copy of the statistics required to be made available under paragraph (1)(A).

(3) Current information to campus community

Each institution described in paragraph (1) shall—

(A) make, keep, and maintain a log, recording all fires in on-campus student housing facilities, including the nature, date, time, and general location of each fire; and

(B) make annual reports to the campus community on such fires.

(4) Responsibilities of the Secretary

The Secretary shall—

(A) make the statistics submitted under paragraph (1)(A) to the Secretary available to the public; and

(B) in coordination with nationally recognized fire organizations and representatives of institutions of higher education, representatives of associations of institutions of higher education, and other organizations that represent and house a significant number of students—

(i) identify exemplary fire safety policies, procedures, programs, and practices, including the installation, to the technical standards of the National Fire Protection Association, of fire detection, prevention, and protection technologies in student housing, dormitories, and other buildings;

(ii) disseminate the exemplary policies, procedures, programs and practices described in clause (i) to the Administrator of the United States Fire Administration;

(iii) make available to the public information concerning those policies, procedures, programs, and practices that have proven effective in the reduction of fires; and

(iv) develop a protocol for institutions to review the status of their fire safety systems.

(5) Rules of construction

Nothing in this subsection shall be construed to—

(A) authorize the Secretary to require particular policies, procedures, programs, or practices by institutions of higher education with respect to fire safety, other than with respect to the collection, reporting, and dissemination of information required by this subsection;

(B) affect section 444 of the General Education Provisions Act [20 U.S.C. 1232g] (commonly known as the “Family Educational Rights and Privacy Act of 1974”) or the regulations issued under section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note);

(C) create a cause of action against any institution of higher education or any employee of such an institution for any civil liability; or

(D) establish any standard of care.

(6) Compliance report

The Secretary shall annually report to the authorizing committees regarding compliance with this subsection by institutions of higher education, including an up-to-date report on the Secretary’s monitoring of such compliance.

(7) Evidence

Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with this subsection shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this subsection.

(j) Missing person procedures**(1) Option and procedures**

Each institution of higher education that provides on-campus housing and participates in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall—

(A) establish a missing student notification policy for students who reside in on-campus housing that—

(i) informs each such student that such student has the option to identify an individual to be contacted by the institution not later than 24 hours after the time that the student is determined missing in accordance with official notification procedures established by the institution under subparagraph (B);

(ii) provides each such student a means to register confidential contact information in the event that the student is determined to be missing for a period of more than 24 hours;

(iii) advises each such student who is under 18 years of age, and not an emancipated individual, that the institution is required to notify a custodial parent or guardian not later 24 hours after the time that the student is determined to be missing in accordance with such procedures;

(iv) informs each such residing student that the institution will notify the appro-

priate law enforcement agency not later than 24 hours after the time that the student is determined missing in accordance with such procedures; and

(v) requires, if the campus security or law enforcement personnel has been notified and makes a determination that a student who is the subject of a missing person report has been missing for more than 24 hours and has not returned to the campus, the institution to initiate the emergency contact procedures in accordance with the student’s designation; and

(B) establish official notification procedures for a missing student who resides in on-campus housing that—

(i) includes procedures for official notification of appropriate individuals at the institution that such student has been missing for more than 24 hours;

(ii) requires any official missing person report relating to such student be referred immediately to the institution’s police or campus security department; and

(iii) if, on investigation of the official report, such department determines that the missing student has been missing for more than 24 hours, requires—

(I) such department to contact the individual identified by such student under subparagraph (A)(i);

(II) if such student is under 18 years of age, and not an emancipated individual, the institution to immediately contact the custodial parent or legal guardian of such student; and

(III) if subclauses (I) or (II) do not apply to a student determined to be a missing person, inform the appropriate law enforcement agency.

(2) Rule of construction

Nothing in this subsection shall be construed—

(A) to provide a private right of action to any person to enforce any provision of this subsection; or

(B) to create a cause of action against any institution of higher education or any employee of the institution for any civil liability.

(k) Notice to students concerning penalties for drug violations**(1) Notice upon enrollment**

Each institution of higher education shall provide to each student, upon enrollment, a separate, clear, and conspicuous written notice that advises the student of the penalties under section 1091(r) of this title.

(2) Notice after loss of eligibility

An institution of higher education shall provide in a timely manner to each student who has lost eligibility for any grant, loan, or work-study assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 as a result of the penalties listed under section 1091(r)(1) of this title a separate, clear, and conspicuous written notice that notifies the student of the loss of eligibility and ad-

vises the student of the ways in which the student can regain eligibility under section 1091(r)(2) of this title.

(I) Entrance counseling for borrowers

(1) Disclosure required prior to disbursement

(A) In general

Each eligible institution shall, at or prior to the time of a disbursement to a first-time borrower of a loan made, insured, or guaranteed under part B (other than a loan made pursuant to section 1078-3 of this title or a loan made on behalf of a student pursuant to section 1078-2 of this title) or made under part C (other than a Federal Direct Consolidation Loan or a Federal Direct PLUS loan made on behalf of a student), ensure that the borrower receives comprehensive information on the terms and conditions of the loan and of the responsibilities the borrower has with respect to such loan in accordance with paragraph (2). Such information—

- (i) shall be provided in a simple and understandable manner; and
- (ii) may be provided—
 - (I) during an entrance counseling session conducted in person;
 - (II) on a separate written form provided to the borrower that the borrower signs and returns to the institution; or
 - (III) online, with the borrower acknowledging receipt of the information.

(B) Use of interactive programs

The Secretary shall encourage institutions to carry out the requirements of subparagraph (A) through the use of interactive programs that test the borrower's understanding of the terms and conditions of the borrower's loans under part B or C, using simple and understandable language and clear formatting.

(2) Information to be provided

The information to be provided to the borrower under paragraph (1)(A) shall include the following:

- (A) To the extent practicable, the effect of accepting the loan to be disbursed on the eligibility of the borrower for other forms of student financial assistance.
- (B) An explanation of the use of the master promissory note.
- (C) Information on how interest accrues and is capitalized during periods when the interest is not paid by either the borrower or the Secretary.
- (D) In the case of a loan made under section 1078-2 or 1078-8 of this title, a Federal Direct PLUS Loan, or a Federal Direct Unsubsidized Stafford Loan, the option of the borrower to pay the interest while the borrower is in school.
- (E) The definition of half-time enrollment at the institution, during regular terms and summer school, if applicable, and the consequences of not maintaining half-time enrollment.
- (F) An explanation of the importance of contacting the appropriate offices at the institution of higher education if the borrower

withdraws prior to completing the borrower's program of study so that the institution can provide exit counseling, including information regarding the borrower's repayment options and loan consolidation.

(G) Sample monthly repayment amounts based on—

- (i) a range of levels of indebtedness of—
 - (I) borrowers of loans under section 1078 or 1078-8 of this title; and
 - (II) as appropriate, graduate borrowers of loans under section 1078, 1078-2, or 1078-8 of this title; or
- (ii) the average cumulative indebtedness of other borrowers in the same program as the borrower at the same institution.

(H) The obligation of the borrower to repay the full amount of the loan, regardless of whether the borrower completes or does not complete the program in which the borrower is enrolled within the regular time for program completion.

(I) The likely consequences of default on the loan, including adverse credit reports, delinquent debt collection procedures under Federal law, and litigation.

(J) Information on the National Student Loan Data System and how the borrower can access the borrower's records.

(K) The name of and contact information for the individual the borrower may contact if the borrower has any questions about the borrower's rights and responsibilities or the terms and conditions of the loan.

(m) Disclosures of reimbursements for service on advisory boards

(1) Disclosure

Each institution of higher education participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall report, on an annual basis, to the Secretary, any reasonable expenses paid or provided under section 1650(d) of title 15 to any employee who is employed in the financial aid office of the institution, or who otherwise has responsibilities with respect to education loans or other financial aid of the institution. Such reports shall include—

- (A) the amount for each specific instance of reasonable expenses paid or provided;
- (B) the name of the financial aid official, other employee, or agent to whom the expenses were paid or provided;
- (C) the dates of the activity for which the expenses were paid or provided; and
- (D) a brief description of the activity for which the expenses were paid or provided.

(2) Report to Congress

The Secretary shall summarize the information received from institutions of higher education under paragraph (1) in a report and transmit such report annually to the authorizing committees.

(Pub. L. 89-329, title IV, §485, as added Pub. L. 99-498, title IV, §407(a), Oct. 17, 1986, 100 Stat. 1482; amended Pub. L. 100-50, §15(10), (11), June 3, 1987, 101 Stat. 357; Pub. L. 101-542, title I, §§103(a), (b), 104(a), title II, §204(a), Nov. 8, 1990,

104 Stat. 2381-2385; Pub. L. 101-610, title II, §§201-203, Nov. 16, 1990, 104 Stat. 3171, 3172; Pub. L. 102-26, §10(a)-(d), Apr. 9, 1991, 105 Stat. 128; Pub. L. 102-164, title VI, §603, Nov. 15, 1991, 105 Stat. 1066; Pub. L. 102-325, title IV, §486(a)-(c)(2), July 23, 1992, 106 Stat. 620, 621; Pub. L. 103-208, §2(h)(28)-(37), (k)(9), Dec. 20, 1993, 107 Stat. 2477, 2486; Pub. L. 103-382, title III, §360B(c), Oct. 20, 1994, 108 Stat. 3970; Pub. L. 104-208, div. A, title I, §101(e) [title III, §308], Sept. 30, 1996, 110 Stat. 3009-233, 3009-262; Pub. L. 105-18, title VI, §60001(a), June 12, 1997, 111 Stat. 214; Pub. L. 105-244, title I, §102(b)(3), title IV, §486, Oct. 7, 1998, 112 Stat. 1622, 1741; Pub. L. 106-386, div. B, title VI, §1601(c)(1), Oct. 28, 2000, 114 Stat. 1537; Pub. L. 110-315, title I, §103(b)(11), title IV, §488, title X, §1011(c), Aug. 14, 2008, 122 Stat. 3090, 3293, 3482; Pub. L. 111-39, title IV, §407(b)(5), July 1, 2009, 123 Stat. 1951.)

REFERENCES IN TEXT

Section 14071 of title 42, referred to in subsec. (f)(1)(I), was repealed by Pub. L. 109-248, title I, §129(a), July 27, 2006, 120 Stat. 600.

The Hate Crime Statistics Act, referred to in subsec. (f)(7), is Pub. L. 101-275, Apr. 23, 1990, 104 Stat. 140, which is set out as a note under section 534 of Title 28, Judiciary and Judicial Procedure.

The General Education Provisions Act, referred to in subsec. (h)(2)(C), is title IV of Pub. L. 90-247, Jan. 2, 1968, 81 Stat. 814, which is classified generally to chapter 31 (§1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

Section 264 of the Health Insurance Portability and Accountability Act of 1996, referred to in subsec. (i)(5)(B), is section 264 of title II of Pub. L. 104-191, Aug. 21, 1996, 110 Stat. 2033, which is set out as a note under section 1320d-2 of Title 42, The Public Health and Welfare.

PRIOR PROVISIONS

A prior section 1092, Pub. L. 89-329, title IV, §485, as added Pub. L. 96-374, title IV, §451(a), Oct. 3, 1980, 94 Stat. 1449, related to provision of institutional and financial assistance information for students, prior to the general revision of this part by Pub. L. 99-498.

Another prior section 1092, Pub. L. 89-329, title V, §508, formerly §502, Nov. 8, 1965, 79 Stat. 1255; renumbered §508 and amended Pub. L. 90-35, §2(b), 7, June 29, 1967, 81 Stat. 82, 93, prohibited the making of payments for religious purposes for authorized programs, prior to repeal by Pub. L. 94-482, title I, §151(a)(2), Oct. 12, 1976, 90 Stat. 2151.

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111-39, §407(b)(5)(A)(i)(I), substituted “commonly known as the ‘Family Educational Rights and Privacy Act of 1974’” for “also referred to as the Family Educational Rights and Privacy Act of 1974” in introductory provisions.

Subsec. (a)(1)(I). Pub. L. 111-39, §407(b)(5)(A)(i)(II), substituted “students with disabilities” for “handicapped students”.

Subsec. (a)(4)(B). Pub. L. 111-39, §407(b)(5)(A)(ii), inserted “during which” after “time period”.

Subsec. (a)(7)(B)(iv). Pub. L. 111-39, §407(b)(5)(A)(iii), inserted “education” after “higher” in introductory provisions.

Subsec. (e)(3)(B). Pub. L. 111-39, §407(b)(5)(B), inserted “during which” after “time period”.

Subsec. (f)(1). Pub. L. 111-39, §407(b)(5)(C), inserted “of” after “foreign institution” in introductory provisions.

Subsec. (f)(3), (4)(A), (5), (8)(A). Pub. L. 111-39, §407(b)(5)(C)(ii), substituted “under this subchapter and part C of subchapter I of chapter 34 of title 42, other

than a foreign institution of higher education,” for “under this subchapter and part C of subchapter I of chapter 34 of title 42”.

Subsec. (g)(2). Pub. L. 111-39, §407(b)(5)(D), substituted “paragraph (1)(G)” for “subparagraph (G)”.

Subsec. (i)(2), (3). Pub. L. 111-39, §407(b)(5)(E)(i), (ii), substituted “institution described in paragraph (1)” for “eligible institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42”.

Subsec. (i)(5)(B). Pub. L. 111-39, §407(b)(5)(E)(iii), substituted “commonly known as the ‘Family Educational Rights and Privacy Act of 1974’” for “the Family Educational Rights and Privacy Act of 1974”.

Subsec. (k)(2). Pub. L. 111-39, §407(b)(5)(F), inserted “section” before “1091(r)(1)”.

Subsec. (l)(1)(A). Pub. L. 111-39, §407(b)(5)(G), substituted “paragraph (2)” for “subparagraph (B)” in introductory provisions.

2008—Subsec. (a)(1)(G)(iv). Pub. L. 110-315, §488(a)(1)(A), added cl. (iv).

Subsec. (a)(1)(M). Pub. L. 110-315, §488(a)(1)(B), added subpar. (M) and struck out former subpar. (M) which read as follows: “the terms and conditions under which students receiving guaranteed student loans under part B of this subchapter or direct student loans under part D of this subchapter, or both, may—

“(i) obtain deferral of the repayment of the principal and interest for service under the Peace Corps Act (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)) or under the Domestic Volunteer Service Act of 1973, or for comparable full-time service as a volunteer for a tax-exempt organization of demonstrated effectiveness in the field of community service, and

“(ii) obtain partial cancellation of the student loan for service under the Peace Corps Act (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)) under the Domestic Volunteer Service Act of 1973 or, for comparable full-time service as a volunteer for a tax-exempt organization of demonstrated effectiveness in the field of community service;”.

Subsec. (a)(1)(P) to (V). Pub. L. 110-315, §488(a)(1)(C)–(E), added subpars. (P) to (V).

Subsec. (a)(4). Pub. L. 110-315, §488(a)(2), added par. (4) and struck out former par. (4) which read as follows: “For purposes of this section, institutions may exclude from the information disclosed in accordance with subparagraph (L) of paragraph (1) the completion or graduation rates of students who leave school to serve in the armed services, on official church missions, or with a recognized foreign aid service of the Federal Government.”

Subsec. (a)(7). Pub. L. 110-315, §488(a)(3), added par. (7).

Subsec. (b)(1)(A). Pub. L. 110-315, §488(b), which directed the general amendment of subpar. (A), with the new subpar. (A) including a subsec. (b) designation and heading and par. (1) designation, was executed by substituting the new subpar. (A) without the added subsec. (b) designation and heading and par. (1) designation for the existing subpar. (A), to reflect the probable intent of Congress. Prior to amendment, subpar. (A) read as follows: “Each eligible institution shall, through financial aid officers or otherwise, make available counseling to borrowers of loans which are made, insured, or guaranteed under part B (other than loans made pursuant to section 1078-2 of this title) of this subchapter or made under part C or D of this subchapter prior to the completion of the course of study for which the borrower enrolled at the institution or at the time of departure from such institution. The counseling required by this subsection shall include—

“(i) the average anticipated monthly repayments, a review of the repayment options available, and such debt and management strategies as the institution determines are designed to facilitate the repayment of such indebtedness; and

“(ii) the terms and conditions under which the student may obtain partial cancellation or defer repay-

ment of the principal and interest pursuant to sections 1078(b), 1087dd(c)(2), and 1087ee of this title.”

Subsec. (d)(1). Pub. L. 110-315, § 488(c)(1), inserted “Such information shall also include information on the various payment options available for student loans, including income-sensitive and income-based repayment plans for loans made, insured, or guaranteed under part B and income-contingent and income-based repayment plans for loans made under part C,” before “In addition, such information” and “The Secretary shall also provide information on loan forbearance, including the increase in debt that results from capitalization of interest,” before “Such information shall be provided”.

Subsec. (d)(4). Pub. L. 110-315, § 488(c)(2), added par. (4).

Subsec. (e)(3). Pub. L. 110-315, § 488(d), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “For purposes of this subsection, institutions may exclude from the reporting requirements under paragraphs (1) and (2) the completion or graduation rates of students and student athletes who leave school to serve in the armed services, on official church missions, or with a recognized foreign aid service of the Federal Government.”

Subsec. (f)(1). Pub. L. 110-315, § 488(e)(1)(A), inserted “, other than a foreign institution higher education,” after “chapter 34 of title 42” in introductory provisions.

Subsec. (f)(1)(C)(i) to (iii). Pub. L. 110-315, § 488(e)(1)(B), added cls. (i) to (iii) and struck out former cls. (i) and (ii) which read as follows:

“(i) the enforcement authority of security personnel, including their working relationship with State and local police agencies; and

“(ii) policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies.”

Subsec. (f)(1)(F)(ii). Pub. L. 110-315, § 488(e)(1)(C), substituted “clause (i), of larceny-theft, simple assault, intimidation, and destruction, damage, or vandalism of property, and of” for “clause (i), and” and inserted a comma after “any person”.

Subsec. (f)(1)(J). Pub. L. 110-315, § 488(e)(1)(D), added subpar. (J).

Subsec. (f)(5)(A). Pub. L. 110-315, § 103(b)(11), substituted “authorizing committees” for “Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate”.

Subsec. (f)(15) to (18). Pub. L. 110-315, § 488(e)(2), (3), added pars. (15) to (17) and redesignated former par. (15) as (18).

Subsec. (g)(4)(B) to (D). Pub. L. 110-315, § 488(f), redesignated subpars. (C) and (D) as (B) and (C), respectively, struck out “and the report to Congress described in subparagraph (B)” after “subparagraph (A)” in subpar. (B) and “the information reported under subparagraph (B) and” after “availability of” in subpar. (C), and struck out former subpar. (B) which read as follows: “The Secretary shall prepare a report regarding the information received under subparagraph (A) and submit such report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate by April 1, 2000. The report shall—

“(i) summarize the information and identify trends in the information;

“(ii) aggregate the information by divisions of the National Collegiate Athletic Association; and

“(iii) contain information on each individual institution of higher education.”

Subsecs. (h) to (l). Pub. L. 110-315, § 488(g), added subsecs. (h) to (l).

Subsec. (m). Pub. L. 110-315, § 1011(c), added subsec. (m).

2000—Subsec. (f)(1)(I). Pub. L. 106-386 added subpar. (I).

1998—Subsec. (a)(1). Pub. L. 105-244, § 486(a)(1)(B), in introductory provisions, inserted after second sentence “Each eligible institution shall, on an annual basis,

provide to all enrolled students a list of the information that is required to be provided by institutions to students by this section and section 1232g of this title, together with a statement of the procedures required to obtain such information.”

Pub. L. 105-244, § 486(a)(1)(A), in introductory provisions, substituted “upon request, through appropriate publications, mailings, and electronic media, to an enrolled student and to any prospective student” for “, through appropriate publications and mailings, to all current students, and to any prospective student upon request”.

Subsec. (a)(1)(F). Pub. L. 105-244, § 486(a)(1)(C), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: “a statement of the refund policy of the institution, as determined under section 1091b of this title, for the return of unearned tuition and fees or other refundable portion of cost, as described in subparagraph (E) of this paragraph, which refunds shall be credited in the following order:

“(i) to outstanding balances on loans under part B of this subchapter for the period of enrollment for which a refund is required,

“(ii) to outstanding balances on loans under part C of this subchapter for the period of enrollment for which a refund is required,

“(iii) to outstanding balances on loans under part D of this subchapter for the period of enrollment for which a refund is required,

“(iv) to awards under subpart 1 of part A of this subchapter,

“(v) to awards under subpart 3 of part A of this subchapter,

“(vi) to other student assistance, and

“(vii) to the student;”.

Subsec. (a)(1)(O). Pub. L. 105-244, § 486(a)(1)(D)–(F), added subpar. (O).

Subsec. (a)(3)(A). Pub. L. 105-244, § 486(a)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “shall, for any academic year beginning more than 270 days after the Secretary first prescribes final regulations pursuant to such subparagraph (L), be made available to current and prospective students prior to enrolling or entering into any financial obligation; and”.

Subsec. (a)(6). Pub. L. 105-244, § 486(a)(3), added par. (6).

Subsec. (b)(1)(A). Pub. L. 105-244, § 486(b)(1), struck out “(individually or in groups)” after “counseling to borrowers” in introductory provisions.

Subsec. (b)(2)(C). Pub. L. 105-244, § 486(b)(2), added subpar. (C).

Subsec. (d). Pub. L. 105-244, § 486(c), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added pars. (2) and (3).

Subsec. (e)(2). Pub. L. 105-244, § 486(d)(1), substituted “the student’s parents, guidance” for “his parents, his guidance” and inserted at end “If the institution is a member of a national collegiate athletic association that compiles graduation rate data on behalf of the association’s member institutions that the Secretary determines is substantially comparable to the information described in paragraph (1), the distribution of the compilation of such data to all secondary schools in the United States shall fulfill the responsibility of the institution to provide information to a prospective student athlete’s guidance counselor and coach.”

Subsec. (e)(9). Pub. L. 105-244, § 486(d)(2), amended par. (9) generally. Prior to amendment, par. (9) read as follows: “This subsection shall not be effective until the first July 1 that follows, by more than 270 days, the date on which the Secretary first prescribes final regulations pursuant to this subsection. The reports required by this subsection shall be due on that July 1 and each succeeding July 1 and shall cover the 1-year period ending August 31 of the preceding year.”

Subsec. (f)(1)(F). Pub. L. 105-244, § 486(e)(1)(A), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: “Statistics concerning the occur-

rence on campus, during the most recent calendar year, and during the 2 preceding calendar years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

- “(i) murder;
- “(ii) sex offenses, forcible or nonforcible;
- “(iii) robbery;
- “(iv) aggravated assault;
- “(v) burglary; and
- “(vi) motor vehicle theft.”

Subsec. (f)(1)(H). Pub. L. 105-244, § 486(e)(1)(B), (C), redesignated subpar. (I) as (H) and struck out former subpar. (H) which read as follows: “Statistics concerning the number of arrests for the following crimes occurring on campus:

- “(i) liquor law violations;
- “(ii) drug abuse violations; and
- “(iii) weapons possessions.”

Subsec. (f)(1)(I). Pub. L. 105-244, § 486(e)(1)(C), redesignated subpar. (I) as (H).

Pub. L. 105-244, § 102(b)(3), substituted “section 1011i” for “section 1145g”.

Subsec. (f)(4). Pub. L. 105-244, § 486(e)(6), added par. (4). Former par. (4) redesignated (5).

Pub. L. 105-244, § 486(e)(2)(A), which directed the substitution of “On an annual basis, each” for “Upon request of the Secretary, each” was executed by making the substitution for “Upon the request of the Secretary, each” to reflect the probable intent of Congress.

Pub. L. 105-244, § 486(e)(2)(B), substituted “paragraph (1)(F)” for “paragraphs (1)(F) and (1)(H)”.

Subsec. (f)(4)(A). Pub. L. 105-244, § 486(e)(2)(C)–(E), substituted “and the Workforce” for “and Labor” and “2000” for “1995” and struck out “and” at end.

Subsec. (f)(4)(B), (C). Pub. L. 105-244, § 486(e)(2)(F), (G), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (f)(5). Pub. L. 105-244, § 486(e)(5), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (f)(5)(A). Pub. L. 105-244, § 486(e)(3), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “For purposes of this subsection, the term ‘campus’ includes—

“(i) any building or property owned or controlled by the institution of higher education within the same reasonably contiguous geographic area and used by the institution in direct support of, or related to its educational purposes; or

“(ii) any building or property owned or controlled by student organizations recognized by the institution.”

Subsec. (f)(6). Pub. L. 105-244, § 486(e)(5), redesignated par. (5) as (6). Former par. (6) redesignated (7).

Pub. L. 105-244, § 486(e)(4), substituted “paragraph (1)(F)” for “paragraphs (1)(F) and (1)(H)” and inserted at end “Such statistics shall not identify victims of crimes or persons accused of crimes.”

Subsec. (f)(7), (8). Pub. L. 105-244, § 486(e)(5), redesignated pars. (6) and (7) as (7) and (8), respectively.

Subsec. (f)(9) to (15). Pub. L. 105-244, § 486(e)(7), added pars. (9) to (15).

Subsec. (g)(1)(I), (J). Pub. L. 105-244, § 486(f)(1), added subpars. (I) and (J).

Subsec. (g)(4), (5). Pub. L. 105-244, § 486(f)(2)–(4), added par. (4), redesignated former par. (4) as (5), and struck out heading and text of former par. (5). Text read as follows: “The Secretary shall issue final regulations to implement the requirements of this subsection not later than 180 days following October 20, 1994. Each institution described in paragraph (1) shall make available its first report pursuant to this section not later than October 1, 1996.”

1997—Subsec. (a)(3)(B). Pub. L. 105-18, § 60001(a)(1), substituted “August 31” for “June 30”.

Subsec. (e)(9). Pub. L. 105-18, § 60001(a)(2), substituted “August 31” for “August 30”.

1996—Subsec. (e)(9). Pub. L. 104-208 substituted “August 30” for “June 30”.

1994—Subsec. (g). Pub. L. 103-382 added subsec. (g).

1993—Subsec. (a)(1)(F)(i) to (iii). Pub. L. 103-208, § 2(h)(28), inserted before comma at end “for the period of enrollment for which a refund is required”.

Subsec. (a)(1)(F)(iv). Pub. L. 103-208, § 2(h)(29), inserted “under” after “awards”.

Subsec. (a)(1)(F)(vi). Pub. L. 103-208, § 2(h)(32), redesignated cl. (vii) as (vi) and struck out former cl. (vi) which read as follows: “to awards under part C of subchapter I of chapter 34 of title 42.”

Subsec. (a)(1)(F)(vii). Pub. L. 103-208, § 2(h)(32), redesignated cl. (viii) as (vii). Former cl. (vii) redesignated (vi).

Pub. L. 103-208, § 2(h)(30), struck out “provided under this subchapter and part C of subchapter I of chapter 34 of title 42” after “student assistance”.

Subsec. (a)(1)(F)(viii). Pub. L. 103-208, § 2(h)(32), redesignated cl. (viii) as (vii).

Pub. L. 103-208, § 2(h)(31), struck out period after “student”.

Subsec. (a)(1)(L). Pub. L. 103-208, § 2(k)(9), amended directory language of Pub. L. 102-325, § 486(a)(3). See 1992 Amendment note below.

Pub. L. 103-208, § 2(h)(33), inserted comma after “full-time”.

Subsec. (a)(3)(A). Pub. L. 103-208, § 2(h)(34), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “shall be available beginning on July 1, 1993, and each year thereafter to current and prospective students prior to enrolling or entering into any financial obligation; and”.

Subsec. (b)(1)(A), (2)(A). Pub. L. 103-208, § 2(h)(35), substituted “under part” for “under parts”.

Subsec. (d). Pub. L. 103-208, § 2(h)(36), inserted period at end of penultimate sentence.

Subsec. (e)(9). Pub. L. 103-208, § 2(h)(37), added subpar. (9).

1992—Subsec. (a)(1)(F). Pub. L. 102-325, § 486(a)(1), inserted “, as determined under section 1091b of this title,” after “of the institution” and “, which refunds shall be credited in the following order:” after “of this paragraph” and added cls. (i) to (viii).

Subsec. (a)(1)(K). Pub. L. 102-325, § 486(a)(2), struck out “and” at end.

Subsec. (a)(1)(L). Pub. L. 102-325, § 486(a)(4), redesignated subpar. (L), relating to deferral or partial cancellation of student loans, as (M).

Pub. L. 102-325, § 486(a)(3), as amended by Pub. L. 103-208, § 2(k)(9), amended subpar. (L), relating to completion or graduation rate, by substituting semicolon for period at end.

Subsec. (a)(1)(M). Pub. L. 102-325, § 486(a)(4), (5), redesignated subpar. (L), relating to deferral or partial cancellation of student loans, as (M) and substituted “, and” for period at end.

Subsec. (a)(1)(N). Pub. L. 102-325, § 486(a)(6), added subpar. (N).

Subsec. (b). Pub. L. 102-325, § 486(b), amended subsec. (b) generally, making changes in substance and structure of former text which related to exit counseling for borrowers and borrower information.

Subsec. (f)(1)(F). Pub. L. 102-325, § 486(c)(1), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: “Statistics concerning the occurrence on campus, during the most recent calendar year, and during the 2 preceding calendar years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

- “(i) murder;
- “(ii) rape;
- “(iii) robbery;
- “(iv) aggravated assault;
- “(v) burglary; and
- “(vi) motor vehicle theft.”

Subsec. (f)(7). Pub. L. 102-325, § 486(c)(2), added par. (7).

1991—Subsec. (a)(1)(L). Pub. L. 102-26, § 10(a), which directed the insertion of “undergraduate” after “full-time” in subpar. (L), was executed to the subpar. (L) added by Pub. L. 101-542, § 103(a), relating to completion or graduation rate, to reflect the probable intent of Congress.

Subsec. (a)(3)(A) to (C). Pub. L. 102-26, §10(b), inserted “and” at end of subpar. (A), substituted a period for “; and” at end of subpar. (B), and struck out subpar. (C) which read as follows: “shall be updated not less than biennially.”

Subsec. (a)(5). Pub. L. 102-26, §10(c), added par. (5).

Subsec. (b). Pub. L. 102-164 substituted “Exit counseling for borrowers; borrower information” for “Exit counseling for borrowers” in heading and inserted at end “Each eligible institution shall require that the borrower of a loan made under part B, part C, or part D of this subchapter submit to the institution, during the exit interview required by this subsection, the borrower’s expected permanent address after leaving the institution, regardless of the reason for leaving; the name and address of the borrower’s expected employer after leaving the institution; and the address of the borrower’s next of kin. In the case of a loan made under part B of this subchapter, the institution shall then submit this information to the holder of the loan.”

Subsec. (f)(1). Pub. L. 102-26, §10(d), substituted “August 1, 1991,” for “September 1, 1991,” in introductory provisions, and in subpar. (F) substituted “calendar year” and “calendar years” for “school year” and “school years”, respectively.

1990—Subsec. (a)(1)(L). Pub. L. 101-610, §201, added subpar. (L) relating to deferral or partial cancellation of student loans.

Pub. L. 101-542, §103(a), added subpar. (L) relating to completion or graduation rate.

Subsec. (a)(3), (4). Pub. L. 101-542, §103(b), added pars. (3) and (4).

Subsec. (b)(3). Pub. L. 101-610, §202, added par. (3).

Subsec. (d). Pub. L. 101-610, §203, inserted before last sentence “The Secretary shall provide information concerning the specific terms and conditions under which students may obtain partial or total cancellation or defer repayment of loans for service, shall indicate (in terms of the Federal minimum wage) the maximum level of compensation and allowances that a student borrower may receive from a tax-exempt organization to qualify for a deferment, and shall explicitly state that students may qualify for such partial cancellations or deferments when they serve as a paid employee of a tax-exempt organization”.

Subsec. (e). Pub. L. 101-542, §104(a), added subsec. (e).

Subsec. (f). Pub. L. 101-542, §204(a), added subsec. (f).

1987—Subsec. (b). Pub. L. 100-50, §15(10), inserted “(other than loans made pursuant to section 1078-2 of this title)” after “part B of this subchapter”.

Subsec. (d). Pub. L. 100-50, §15(11), inserted after second sentence “In addition, such information shall include information to enable borrowers to assess the practical consequences of loan consolidation, including differences in deferment eligibility, interest rates, monthly payments, and finance charges, and samples of loan consolidation profiles to illustrate such consequences.”

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-386, div. B, title VI, §1601(c)(2), Oct. 28, 2000, 114 Stat. 1538, provided that: “The amendment made by this subsection [amending this section] shall take effect 2 years after the date of the enactment of this Act [Oct. 28, 2000].”

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 60001(b) of Pub. L. 105-18 provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) [amending this section] are effective upon enactment [June 12, 1997].

“(2) INFORMATION DISSEMINATION.—No institution shall be required to comply with the amendment made by subsection (a)(1) [amending this section] before July 1, 1998.”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 486(a), (b), and (c)(2) of Pub. L. 102-325 effective July 23, 1992, except that changes relating to disclosures effective with respect to periods of enrollment beginning on or after July 1, 1993, see section 498 of Pub. L. 102-325, set out as a note under section 1088 of this title.

Section 486(c)(3) of Pub. L. 102-325 provided that: “The amendment made by this subsection to subparagraph (F)(ii) of section 485(f)(1) of the Act [20 U.S.C. 1092(f)(1)(F)(ii)] shall be effective with respect to reports made pursuant to such section on or after September 1, 1993. The statistics required by subparagraph (F) of such section shall—

“(A) in the report required on September 1, 1992, include statistics concerning the occurrence on campus of offenses during the period from August 1, 1991, to July 31, 1992;

“(B) in the report required on September 1, 1993, include statistics concerning the occurrence on campus of offenses during (i) the period from August 1, 1991, to December 31, 1991, and (ii) the calendar year 1992;

“(C) in the report required on September 1, 1994, include statistics concerning the occurrence on campus of offenses during (i) the period from August 1, 1991, to December 31, 1991, and (ii) the calendar years 1992 and 1993; and

“(D) in the report required on September 1 of 1995 and each succeeding year, include statistics concerning the occurrence on campus of offenses during the three calendar years preceding the year in which the report is made.”

EFFECTIVE DATE OF 1990 AMENDMENT

Section 104(b) of Pub. L. 101-542, as amended by Pub. L. 102-26, §10(e), Apr. 9, 1991, 105 Stat. 128, provided that: “The report to the Secretary of Education required by the amendments made by this section [amending this section] shall be due on July 1, 1993, and annually thereafter, and shall cover the one-year period ending on June 30 of the preceding year.”

Section 204(c) of Pub. L. 101-542 provided that: “The amendments made by this section [amending this section] shall take effect on September 1, 1991, except that the requirement of section 485(f)(1)(F) and (H) of the Higher Education Act of 1965 [subsec. (f)(1)(F), (H) of this section] (as added by this section) shall be applied to require statistics with respect to school years preceding the date of enactment of this Act [Nov. 8, 1990] only to the extent that data concerning such years is reasonably available.”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99-498, set out as a note under section 1001 of this title.

Subsec. (b) of this section applicable only to periods of enrollment beginning on or after July 1, 1987, see sec-

tion 407(b) of Pub. L. 99-498, set out as a note under section 1091 of this title.

REGULATIONS

Section 401(a) of Pub. L. 101-542 provided that: “The Secretary is authorized to issue regulations to carry out the provisions of this Act [amending this section and sections 1085, 1094, and 1232g of this title and enacting provisions set out as notes under this section and section 1001 of this title].”

MODEL INSTITUTION FINANCIAL AID OFFER FORM

Pub. L. 110-315, title IV, §484, Aug. 14, 2008, 122 Stat. 3286, provided that:

“(a) MODEL FORMAT.—The Secretary of Education shall—

“(1) not later than six months after the date of enactment of the Higher Education Opportunity Act [Aug. 14, 2008], convene a group of students, families of students, secondary school guidance counselors, representatives of institutions of higher education (including financial aid administrators, registrars, and business officers), and nonprofit consumer groups for the purpose of offering recommendations for improvements that—

“(A) can be made to financial aid offer forms; and

“(B) include the information described in subsection (b);

“(2) develop a model format for financial aid offer forms based on the recommendations of the group; and

“(3) not later than one year after the date of enactment of the Higher Education Opportunity Act—

“(A) submit recommendations to the authorizing committees (as defined in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003); and

“(B) make the recommendations and model format widely available.

“(b) CONTENTS.—The recommendations developed under subsection (a) for model financial aid offer forms shall include, in a consumer-friendly manner that is simple and understandable, the following:

“(1) Information on the student's cost of attendance, including the following:

“(A) Tuition and fees.

“(B) Room and board costs.

“(C) Books and supplies.

“(D) Transportation.

“(2) The amount of financial aid that the student does not have to repay, such as scholarships, grants, and work-study assistance, offered to the student for such year, and the conditions of such financial aid.

“(3) The types and amounts of loans under part B, D, or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq., 1087a et seq., 1087aa et seq.) for which the student is eligible for such year, and the applicable terms and conditions of such loans.

“(4) The net amount that the student, or the student's family on behalf of the student, will have to pay for the student to attend the institution for such year, equal to—

“(A) the cost of attendance for the student for such year; minus

“(B) the amount of financial aid described in paragraphs (2) and (3) that is offered in the financial aid offer form.

“(5) Where a student or the student's family can seek additional information regarding the financial aid offered.

“(6) Any other information the Secretary of Education determines necessary so that students and parents can make informed student loan borrowing decisions.”

CONGRESSIONAL FINDINGS

Section 360B(b) of Pub. L. 103-382 provided that: “The Congress finds that—

“(1) participation in athletic pursuits plays an important role in teaching young Americans how to

work on teams, handle challenges and overcome obstacles;

“(2) participation in athletic pursuits plays an important role in keeping the minds and bodies of young Americans healthy and physically fit;

“(3) there is increasing concern among citizens, educators, and public officials regarding the athletic opportunities for young men and women at institutions of higher education;

“(4) a recent study by the National Collegiate Athletic Association found that in Division I-A institutions, only 20 percent of the average athletic department operations budget of \$1,310,000 is spent on women's athletics; 15 percent of the average recruiting budget of \$318,402 is spent on recruiting female athletes; the average scholarship expenses for men is \$1,300,000 and \$505,246 for women; and an average of 143 grants are awarded to male athletes and 59 to women athletes;

“(5) female college athletes receive less than 18 percent of the athletics recruiting dollar and less than 24 percent of the athletics operating dollar;

“(6) male college athletes receive approximately \$179,000,000 more per year in athletic scholarship grants than female college athletes;

“(7) prospective students and prospective student athletes should be aware of the commitments of an institution to providing equitable athletic opportunities for its men and women students; and

“(8) knowledge of an institution's expenditures for women's and men's athletic programs would help prospective students and prospective student athletes make informed judgments about the commitments of a given institution of higher education to providing equitable athletic benefits to its men and women students.”

Section 102 of Pub. L. 101-542 provided that: “The Congress finds that—

“(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

“(2) there is increasing concern among citizens, educators, and public officials regarding the academic performance of students at institutions of higher education;

“(3) a recent study by the National Institute of Independent Colleges and Universities found that just 43 percent of students attending 4-year public colleges and universities and 54 percent of students entering private institutions graduated within 6 years of enrolling;

“(4) the academic performance of student athletes, especially student athletes receiving football and basketball scholarships, has been a source of great concern in recent years;

“(5) more than 10,000 athletic scholarships are provided annually by institutions of higher education;

“(6) prospective students and prospective student athletes should be aware of the educational commitments of an institution of higher education; and

“(7) knowledge of graduation rates would help prospective students and prospective student athletes make an informed judgment about the educational benefits available at a given institution of higher education.”

Pub. L. 101-542, title II, §202, Nov. 8, 1990, 104 Stat. 2384, provided that: “The Congress finds that—

“(1) the reported incidence of crime, particularly violent crime, on some college campuses has steadily risen in recent years;

“(2) although annual ‘National Campus Violence Surveys’ indicate that roughly 80 percent of campus crimes are committed by a student upon another student and that approximately 95 percent of the campus crimes that are violent are alcohol- or drug-related, there are currently no comprehensive data on campus crimes;

“(3) out of 8,000 postsecondary institutions participating in Federal student aid programs, only 352 colleges and universities voluntarily provide crime sta-

tistics directly through the Uniform Crime Report of the Federal Bureau of Investigation, and other institutions report data indirectly, through local police agencies or States, in a manner that does not permit campus statistics to be separated;

“(4) several State legislatures have adopted or are considering legislation to require reporting of campus crime statistics and dissemination of security practices and procedures, but the bills are not uniform in their requirements and standards;

“(5) students and employees of institutions of higher education should be aware of the incidence of crime on campus and policies and procedures to prevent crime or to report occurrences of crime;

“(6) applicants for enrollment at a college or university, and their parents, should have access to information about the crime statistics of that institution and its security policies and procedures; and

“(7) while many institutions have established crime preventive measures to increase the safety of campuses, there is a clear need—

“(A) to encourage the development on all campuses of security policies and procedures;

“(B) for uniformity and consistency in the reporting of crimes on campus; and

“(C) to encourage the development of policies and procedures to address sexual assaults and racial violence on college campuses.”

§ 1092a. Combined payment plan

(a) Eligibility for plan

Upon the request of the borrower, a lender described in subparagraph (A), (B), or (C) of section 1078-3(a)(1) of this title, or an eligible lender as defined in section 719 of the Public Health Service Act (42 U.S.C. 292o) may, with respect to a consolidation loan made under section 1078-3 of this title (and section 1087-2(o) of this title as in effect prior to the enactment of section 1078-3 of this title) and loans guaranteed under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.), offer a combined payment plan under which the lender shall submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment.

(b) Applicability of other requirements

A lender offering a combined payment plan shall comply with all provisions of section 1078-3 of this title applicable to loans consolidated or to be consolidated and shall comply with all provisions of part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) applicable to loans under that subpart which are made part of the combined payment plan, except that a lender offering a combined payment plan under this section may offer consolidation loans pursuant to section 1078-3(b)(1)(A) of this title if such lender holds any outstanding loan of a borrower which is selected for inclusion in a combined payment plan.

(c) Lender eligibility

Such lender may offer a combined payment plan only if—

(1) the lender holds an outstanding loan of that borrower which is selected by the borrower for incorporation into a combined payment plan pursuant to this section (including loans which are selected by the borrower for consolidation under this section); or

(2) the borrower certifies that the borrower has sought and has been unable to obtain a

combined payment plan from the holders of the outstanding loans of that borrower.

(d) Borrower selection of competing offers

In the case of multiple offers by lenders to administer a combined payment plan for a borrower, the borrower shall select from among them the lender to administer the combined payment plan including its loan consolidation component.

(e) Effect of plan

Upon selection of a lender to administer the combined payment plan, the lender may reissue any loan under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) selected by the borrower for incorporation in the combined payment plan which is not held by such lender and the proceeds of such reissued loan shall be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans, if—

(1) the lender selected to administer the combined payment plan has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being reissued (A) that the loan is a legal, valid, and binding obligation of the borrower; (B) that each such loan was made and serviced in compliance with applicable laws and regulations; and (C) the insurance on such loan is in full force and effect; and

(2) the loan being reissued was not in default (as defined in section 707(e)(3) of the Public Health Service Act [42 U.S.C. 292f(e)(3)]) at the time the request for a combined payment plan is made.

(f) Notes and insurance certificates

(1) Each loan reissued under subsection (e) of this section shall be evidenced by a note executed by the borrower. The Secretary of Health and Human Services shall insure such loan under a certificate of comprehensive insurance with no insurance limit, but any such certificate shall only be issued to an authorized holder of loans insured under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) (including the Student Loan Marketing Association). Such certificates shall provide that all loans reissued under this section shall be fully insured against loss of principal and interest. Any insurance issued with respect to loans reissued under this section shall be excluded from the limitation on maximum insurance authority set forth in section 710 of the Public Health Service Act [42 U.S.C. 292i]. Notwithstanding the provisions of section 729(a)¹ of the Public Health Service Act, the reissued loan shall be made in an amount, including outstanding principal, capitalized interest, accrued unpaid interest not yet capitalized, and authorized late charges. The proceeds of each such loan will be paid by the lender to the holder of the original loan being reissued and the borrower's obligation to that holder on that loan shall be discharged.

(2) Except as otherwise specifically provided for under the provisions of this section, the terms of any reissued loan shall be the same as the terms of the original loan. The maximum re-

¹ See References in Text note below.

payment period for a loan reissued under this section shall not exceed the remainder of the period which would have been permitted on the original loan. If the lender holds more than one loan insured under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.), the maximum repayment period for all such loans may extend to the latest date permitted for any individual loan. Any reissued loan may be consolidated with any other Health Education Assistance Loan as provided in the Public Health Service Act [42 U.S.C. 201 et seq.], and, with the concurrence of the borrower, repayment of any such loans during any period may be made in amounts that are less than the interest that accrues on such loans during that period.

(g) Termination of borrower eligibility

The status of an individual as an eligible combined payment plan borrower terminates upon receipt of a combined payment plan.

(h) Fees and premiums

No origination fee or insurance premium shall be charged to the borrower on any combined payment plan, and no origination fee or insurance premium shall be payable by the lender to the Secretary of Health and Human Services.

(i) Commencement of repayment

Repayment of a combined payment plan shall commence within 60 days after the later of the date of acceptance of the lender's offer to administer a combined payment plan, the making of the consolidation loan or the reissuance of any Health Education Assistance Loans pursuant to subsection (e) of this section.

(Pub. L. 89-329, title IV, § 485A, as added Pub. L. 99-498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1484; amended Pub. L. 100-50, § 15(12), June 3, 1987, 101 Stat. 357; Pub. L. 111-39, title IV, § 407(b)(6), July 1, 2009, 123 Stat. 1951.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsecs. (a), (b), (e), and (f), is act July 1, 1944, ch. 373, 58 Stat. 682, which is classified generally to chapter 6A (§201 et seq.) of Title 42, The Public Health and Welfare. Part A of title VII of the Act is classified generally to part A (§292 et seq.) of subchapter V of chapter 6A of Title 42. Section 729 of the Act was classified to section 294b of Title 42 and was omitted in the general revision of subchapter V of chapter 6A by Pub. L. 102-408, title I, § 102, Oct. 13, 1992, 106 Stat. 1994. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111-39, § 407(b)(6)(A), substituted “or an eligible lender as defined in section 719 of the Public Health Service Act (42 U.S.C. 292o)” for “or defined in subpart I of part C of title VII of the Public Health Service Act” and “under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.)” for “under subpart I of part C of title VII of the Public Health Service Act (known as Health Education Assistance Loans)”.

Subsec. (b). Pub. L. 111-39, § 407(b)(6)(B), substituted “part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.)” for “subpart I of part C of title VII of the Public Health Service Act”.

Subsec. (e). Pub. L. 111-39, § 407(b)(6)(C)(i), substituted “loan under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.)” for “Health Education Assistance Loan” in introductory provisions.

Subsec. (e)(2). Pub. L. 111-39, § 407(b)(6)(C)(ii), substituted “707(e)(3)” for “733(e)(3)”.

Subsec. (f)(1). Pub. L. 111-39, § 407(b)(6)(D)(i), substituted “part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.)” for “subpart I of part C of title VII of the Public Health Service Act” and “710” for “728(a)”.

Subsec. (f)(2). Pub. L. 111-39, § 407(b)(6)(D)(ii), substituted “part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.)” for “subpart I of part C of title VII of the Public Health Service Act”.

1987—Subsec. (a). Pub. L. 100-50 substituted “subparagraph (A), (B), or (C)” for “clause (i), (ii), or (iii)”.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

§ 1092b. National Student Loan Data System

(a) Development of System

The Secretary shall consult with a representative group of guaranty agencies, eligible lenders, and eligible institutions to develop a mutually agreeable proposal for the establishment of a National Student Loan Data System containing information regarding loans made, insured, or guaranteed under part B of this subchapter and loans made under parts C and D of this subchapter, and for allowing the electronic exchange of data between program participants and the system. In establishing such data system, the Secretary shall place a priority on providing for the monitoring of enrollment, student status, information about current loan holders and servicers, and internship and residency information. Such data system shall also permit borrowers to use the system to identify the current loan holders and servicers of such borrower's loan not later than one year after October 7, 1998. The information in the data system shall include (but is not limited to)—

(1) the amount and type of each such loan made;

(2) the names and social security numbers of the borrowers;

(3) the guaranty agency responsible for the guarantee of the loan;

(4) the institution of higher education or organization responsible for loans made under parts C and D of this subchapter;

(5) the exact amount of loans partially or totally canceled or in deferment for service under the Peace Corps Act (22 U.S.C. 2501 et seq.), for service under the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4950 et seq.], and for comparable full-time service as a volunteer for a tax-exempt organization of demonstrated effectiveness;

(6) the eligible institution in which the student was enrolled or accepted for enrollment at the time the loan was made, and any additional institutions attended by the borrower;

(7) the total amount of loans made to any borrower and the remaining balance of the loans;

(8) the lender, holder, and servicer of such loans;

(9) information concerning the date of any default on the loan and the collection of the loan, including any information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 1080(a) of this title or the guaranty agency has made a payment to the previous holder of the loan;

(10) information regarding any deferments or forbearance granted on such loans; and

(11) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 1087 of this title.

(b) Additional information

For the purposes of research and policy analysis, the proposal shall also contain provisions for obtaining additional data concerning the characteristics of borrowers and the extent of student loan indebtedness on a statistically valid sample of borrowers under part B of this subchapter. Such data shall include—

(1) information concerning the income level of the borrower and his family and the extent of the borrower's need for student financial assistance, including loans;

(2) information concerning the type of institution attended by the borrower and the year of the program of education for which the loan was obtained;

(3) information concerning other student financial assistance received by the borrower; and

(4) information concerning Federal costs associated with the student loan program under part B of this subchapter, including the costs of interest subsidies, special allowance payments, and other subsidies.

(c) Verification

The Secretary may require lenders, guaranty agencies, or institutions of higher education to verify information or obtain eligibility or other information through the National Student Loan Data System prior to making, guaranteeing, or certifying a loan made under part B, C, or D of this subchapter.

(d) Principles for administering the data system

In managing the National Student Loan Data System, the Secretary shall take actions necessary to maintain confidence in the data system, including, at a minimum—

(1) ensuring that the primary purpose of access to the data system by guaranty agencies, eligible lenders, and eligible institutions of higher education is for legitimate program operations, such as the need to verify the eligibility of a student, potential student, or parent for loans under part B, C, or D;

(2) prohibiting nongovernmental researchers and policy analysts from accessing personally identifiable information;

(3) creating a disclosure form for students and potential students that is distributed when such students complete the common financial reporting form under section 1090 of this title, and as a part of the exit counseling process under section 1092(b) of this title, that—

(A) informs the students that any title IV grant or loan the students receive will be included in the National Student Loan Data System, and instructs the students on how to access that information;

(B) describes the categories of individuals or entities that may access the data relating to such grant or loan through the data system, and for what purposes access is allowed;

(C) defines and explains the categories of information included in the data system;

(D) provides a summary of the provisions of section 1232g of this title (commonly known as the “Family Educational Rights and Privacy Act of 1974”) and other applicable Federal privacy statutes, and a statement of the students’ rights and responsibilities with respect to such statutes;

(E) explains the measures taken by the Department to safeguard the students’ data; and

(F) includes other information as determined appropriate by the Secretary;

(4) requiring guaranty agencies, eligible lenders, and eligible institutions of higher education that enter into an agreement with a potential student, student, or parent of such student regarding a loan under part B, C, or D, to inform the student or parent that such loan shall be—

(A) submitted to the data system; and

(B) accessible to guaranty agencies, eligible lenders, and eligible institutions of higher education determined by the Secretary to be authorized users of the data system;

(5) regularly reviewing the data system to—

(A) delete inactive users from the data system;

(B) ensure that the data in the data system are not being used for marketing purposes; and

(C) monitor the use of the data system by guaranty agencies and eligible lenders to determine whether an agency or lender is accessing the records of students in which the agency or lender has no existing financial interest; and

(6) developing standardized protocols for limiting access to the data system that include—

(A) collecting data on the usage of the data system to monitor whether access has been or is being used contrary to the purposes of the data system;

(B) defining the steps necessary for determining whether, and how, to deny or restrict access to the data system; and

(C) determining the steps necessary to reopen access to the data system following a denial or restriction of access.

(e) Reports to Congress

(1) Annual report

Not later than September 30 of each fiscal year, the Secretary shall prepare and submit to the authorizing committees a report describing—

(A) the effectiveness of existing privacy safeguards in protecting student and parent information in the data system;

(B) the success of any new authorization protocols in more effectively preventing abuse of the data system;

(C) the ability of the Secretary to monitor how the system is being used, relative to the intended purposes of the data system; and

(D) any protocols developed under subsection (d)(6) during the preceding fiscal year.

(2) Study

(A) In general

The Secretary shall conduct a study regarding—

(i) available mechanisms for providing students and parents with the ability to opt in or opt out of allowing eligible lenders to access their records in the National Student Loan Data System; and

(ii) appropriate protocols for limiting access to the data system, based on the risk assessment required under subchapter III of chapter 35 of title 44.

(B) Submission of study

Not later than three years after August 14, 2008, the Secretary shall prepare and submit a report on the findings of the study under subparagraph (A) to the authorizing committees.

(f) Standardization of data reporting

(1) In general

The Secretary shall by regulation prescribe standards and procedures (including relevant definitions) that require all lenders and guaranty agencies to report information on all aspects of loans made under this subchapter and part C of subchapter I of chapter 34 of title 42 in uniform formats in order to permit the direct comparison of data submitted by individual lenders, servicers or guaranty agencies.

(2) Activities

For the purpose of establishing standards under this section, the Secretary shall—

(A) consult with guaranty agencies, lenders, institutions of higher education, and organizations representing the groups described in paragraph (1);

(B) develop standards designed to be implemented by all guaranty agencies and lenders with minimum modifications to existing data processing hardware and software; and

(C) publish the specifications selected to be used to encourage the automation of exchanges of information between all parties involved in loans under this subchapter and part C of subchapter I of chapter 34 of title 42.

(g) Common identifiers

The Secretary shall, not later than July 1, 1993—

(1) revise the codes used to identify institutions and students in the student loan data system authorized by this section to make such codes consistent with the codes used in each database used by the Department of Education that contains information of participation in programs under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(2) modify the design or operation of the system authorized by this section to ensure that data relating to any institution is readily accessible and can be used in a form compatible with the integrated postsecondary education data system (IPEDS).

(h) Integration of databases

The Secretary shall integrate the National Student Loan Data System with the Pell Grant applicant and recipient databases as of January 1, 1994, and any other databases containing information on participation in programs under this subchapter and part C of subchapter I of chapter 34 of title 42.

(Pub. L. 89-329, title IV, § 485B, as added Pub. L. 99-498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1486; amended Pub. L. 100-50, § 15(13), June 3, 1987, 101 Stat. 357; Pub. L. 101-239, title II, § 2008, Dec. 19, 1989, 103 Stat. 2121; Pub. L. 101-610, title II, § 204, Nov. 16, 1990, 104 Stat. 3172; Pub. L. 102-325, title IV, § 487, July 23, 1992, 106 Stat. 623; Pub. L. 103-208, § 2(h)(38)-(41), Dec. 20, 1993, 107 Stat. 2478; Pub. L. 105-244, title IV, § 487, Oct. 7, 1998, 112 Stat. 1746; Pub. L. 110-315, title IV, § 489, Aug. 14, 2008, 122 Stat. 3303; Pub. L. 111-39, title IV, § 407(b)(7), July 1, 2009, 123 Stat. 1952.)

REFERENCES IN TEXT

The Peace Corps Act, referred to in subsec. (a)(5), is Pub. L. 87-293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (a)(5), is Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 394, as amended, which is classified principally to chapter 66 (§ 4950 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of Title 42 and Tables.

Title IV, referred to in subsec. (d)(3)(A), means title IV of the Higher Education Act of 1965, Pub. L. 89-329, which is classified generally to this subchapter and part C (§ 2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of title IV to the Code, see Tables.

AMENDMENTS

2009—Subsec. (a)(5). Pub. L. 111-39, § 407(b)(7)(A), substituted “2501 et seq.” for “2501 et seq.”.

Subsec. (d)(3)(D). Pub. L. 111-39, § 407(b)(7)(B), substituted “commonly known as the ‘Family Educational Rights and Privacy Act of 1974’” for “the Family Educational Rights and Privacy Act of 1974”.

2008—Subsec. (a)(5). Pub. L. 110-315, § 489(1)(C), which directed redesignation of par. (5) “as added by Pub. L. 101-234” as (6), was executed by redesignating par. (5) relating to eligible institutions as (6) to reflect the probable intent of Congress. Par. (5) relating to eligible institutions was added by Pub. L. 101-239.

Pub. L. 110-315, § 489(1)(B), substituted “effectiveness;” for “effectiveness.” in par. (5) relating to loan cancellations and deferments.

Subsec. (a)(6). Pub. L. 110-315, § 489(1)(C), which directed redesignation of par. (5) “as added by Pub. L. 101-234” as (6), was executed by redesignating par. (5) relating to eligible institutions as (6), to reflect the probable intent of Congress. Par. (5) relating to eligible institutions was added by Pub. L. 101-239.

Subsec. (a)(7) to (11). Pub. L. 110-315, § 489(1)(A), redesignated pars. (6) to (10) as (7) to (11), respectively.

Subsec. (d). Pub. L. 110-315, § 489(3), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 110-315, § 489(4), added subsec. (e) and struck out former subsec. (e) which required the Secretary to prepare and submit to appropriate committees of Congress, in each fiscal year, a report describing the results obtained by the establishment and operation of the student loan data system authorized by this section.

Pub. L. 110-315, § 489(2), redesignated subsec. (d) as (e). Former subsec. (e) designated (f).

Subsecs. (f) to (h). Pub. L. 110-315, § 489(2), redesignated subsecs. (e) to (g) as (f) to (h), respectively.

1998—Subsec. (a). Pub. L. 105-244 inserted “not later than one year after October 7, 1998” before period at end of third sentence.

1993—Subsec. (a). Pub. L. 103-208, § 2(h)(38), substituted “parts C and D of this subchapter” for “part D of this subchapter” and struck out second period at end of third sentence.

Subsec. (a)(4). Pub. L. 103-208, § 2(h)(39), substituted “parts C and D of this subchapter” for “part D of this subchapter”.

Subsec. (c). Pub. L. 103-208, § 2(h)(40), substituted “part B, C, or D of this subchapter” for “part B or part D of this subchapter”.

Subsec. (e)(1), (2)(C). Pub. L. 103-208, § 2(h)(41), substituted “under this subchapter and part C of subchapter I of chapter 34 of title 42” for “under this part”.

1992—Subsec. (a). Pub. L. 102-325, § 487(a), inserted “, and for allowing the electronic exchange of data between program participants and the system. In establishing such data system, the Secretary shall place a priority on providing for the monitoring of enrollment, student status, information about current loan holders and servicers, and internship and residency information. Such data system shall also permit borrowers to use the system to identify the current loan holders and servicers of such borrower’s loan.” after “part D of this subchapter”.

Subsecs. (e) to (g). Pub. L. 102-325, § 487(b), added subsecs. (e) to (g).

1990—Subsec. (a)(5). Pub. L. 101-610 added subsec. (a)(5) relating to loan cancellations and deferments.

1989—Pub. L. 101-239 amended section generally, substituting subsecs. (a) to (d) for former subsec. (a) relating to authority of Secretary, subsec. (b) relating to access to information, subsec. (c) relating to verification not required, and subsec. (d) relating to report to Congress.

1987—Subsec. (b)(1). Pub. L. 100-50, § 15(13)(A), substituted “public agencies” for “Federal agencies”.

Subsec. (b)(2)(D). Pub. L. 100-50, § 15(13)(B), substituted “of any borrower” for “of a borrower for whom the guaranty agency provides insurance”.

Subsec. (b)(3). Pub. L. 100-50, § 15(13)(C), substituted “public agency” for “Federal agency”.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986,

Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

§ 1092c. Simplification of lending process for borrowers

(a) All like loans treated as one

To the extent practicable, and with the cooperation of the borrower, eligible lenders shall treat all loans made to a borrower under the same section of part B of this subchapter as one loan and shall submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment. Any deferments on one such loan will be considered a deferment on the total amount of all such loans.

(b) One lender, one guaranty agency

To the extent practicable, and with the cooperation of the borrower, the guaranty agency shall ensure that a borrower only have one lender, one holder, one guaranty agency, and one servicer with which to maintain contact.

(Pub. L. 89-329, title IV, § 485C, as added Pub. L. 102-325, title IV, § 488, July 23, 1992, 106 Stat. 624.)

§ 1092d. Scholarship fraud assessment and awareness activities

(a) Annual report on scholarship fraud

(1) Requirement

The Attorney General and the Secretary of Education, in conjunction with the Federal Trade Commission, shall jointly submit to Congress each year a report on fraud in the offering of financial assistance for purposes of financing an education at an institution of higher education. Each report shall contain an assessment of the nature and quantity of incidents of such fraud during the one-year period ending on the date of such report.

(2) Initial report

The first report under paragraph (1) shall be submitted not later than 18 months after November 1, 2000.

(b) National awareness activities

The Secretary of Education shall, in conjunction with the Federal Trade Commission, maintain a scholarship fraud awareness site on the Internet web site of the Department of Education. The scholarship fraud awareness site may include the following:

(1) Appropriate materials from the Project Scholarscam awareness campaign of the Commission, including examples of common fraudulent schemes.

(2) A list of companies and individuals who have been convicted of scholarship fraud in Federal or State court.

(3) An Internet-based message board to provide a forum for public complaints and experiences with scholarship fraud.

(4) An electronic comment form for individuals who have experienced scholarship fraud or have questions about scholarship fraud, with appropriate mechanisms for the transfer of comments received through such forms to the Department and the Commission.

(5) Internet links to other sources of information on scholarship fraud, including Inter-

net web sites of appropriate nongovernmental organizations, colleges and universities, and government agencies.

(6) An Internet link to the Better Business Bureau in order to assist individuals in assessing the business practices of other persons and entities.

(7) Information on means of communicating with the Federal Student Aid Information Center, including telephone and Internet contact information.

(Pub. L. 106-420, §5, Nov. 1, 2000, 114 Stat. 1868.)

CODIFICATION

Section was enacted as part of the College Scholarship Fraud Prevention Act of 2000, and not as part of title IV of the Higher Education Act of 1965 which comprises this subchapter.

FINDINGS

Pub. L. 106-420, §2, Nov. 1, 2000, 114 Stat. 1867, provided that: "Congress makes the following findings:

"(1) A substantial amount of fraud occurs in the offering of college education financial assistance services to consumers.

"(2) Such fraud includes the following:

"(A) Misrepresentations regarding the provision of sources from which consumers may obtain financial assistance (including scholarships, grants, loans, tuition, awards, and other assistance) for purposes of financing a college education.

"(B) Misrepresentations regarding the provision of portfolios of such assistance tailored to the needs of specific consumers.

"(C) Misrepresentations regarding the pre-selection of students as eligible to receive such assistance.

"(D) Misrepresentations that such assistance will be provided to consumers who purchase specified services from specified entities.

"(E) Misrepresentations regarding the business relationships between particular entities and entities that award or may award such assistance.

"(F) Misrepresentations regarding refunds of processing fees if consumers are not provided specified amounts of such assistance, and other misrepresentations regarding refunds.

"(3) In 1996, the Federal Trade Commission launched 'Project Scholarscam', a joint law enforcement and consumer education campaign directed at fraudulent purveyors of so-called 'scholarship services'.

"(4) Despite the efforts of the Federal Trade Commission, colleges and universities, and nongovernmental organizations, the continued lack of awareness about scholarship fraud permits a significant amount of fraudulent activity to occur."

§ 1092e. College access initiative

(a) State-by-State information

The Secretary shall direct each guaranty agency with which the Secretary has an agreement under section 1078(c) of this title to provide to the Secretary the information necessary for the development of Internet web links and access for students and families to a comprehensive listing of the postsecondary education opportunities, programs, publications, Internet web sites, and other services available in the States for which such agency serves as the designated guarantor.

(b) Guaranty agency activities

(1) Plan and activity required

Each guaranty agency with which the Secretary has an agreement under section 1078(c)

of this title shall develop a plan, and undertake the activity necessary, to gather the information required under subsection (a) and to make such information available to the public and to the Secretary in a form and manner as prescribed by the Secretary.

(2) Activities

Each guaranty agency shall undertake such activities as are necessary to promote access to postsecondary education for students through providing information on college planning, career preparation, and paying for college. The guaranty agency shall publicize such information and coordinate such activities with other entities that either provide or distribute such information in the States for which such guaranty agency serves as the designated guarantor.

(3) Funding

The activities required by this section may be funded from the guaranty agency's Operating Fund established pursuant to section 1072b of this title and, to the extent funds remain, from earnings on the restricted account established pursuant to section 1072(h)(4) of this title.

(4) Rule of construction

Nothing in this subsection shall be construed to require a guaranty agency to duplicate any efforts under way on February 8, 2006, that meet the requirements of this section.

(c) Access to information

(1) Secretary's responsibility

The Secretary shall ensure the availability of the information provided, by the guaranty agencies in accordance with this section, to students, parents, and other interested individuals, through Internet web links or other methods prescribed by the Secretary.

(2) Guaranty agency responsibility

The guaranty agencies shall ensure that the information required by this section is available without charge in printed format for students and parents requesting such information.

(3) Publicity

Not later than 270 days after February 8, 2006, the Secretary and guaranty agencies shall publicize the availability of the information required by this section, with special emphasis on ensuring that populations that are traditionally underrepresented in postsecondary education are made aware of the availability of such information.

(Pub. L. 89-329, title IV, §485D, as added Pub. L. 109-171, title VIII, §8023, Feb. 8, 2006, 120 Stat. 179.)

EFFECTIVE DATE

Section effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109-171, set out as an Effective Date of 2006 Amendment note under section 1002 of this title.

§ 1092f. Early awareness of financial aid eligibility

(a) In general

The Secretary shall implement, in cooperation with States, institutions of higher education,

secondary schools, early intervention and outreach programs under this subchapter and part C of subchapter I of chapter 34 of title 42, other agencies and organizations involved in student financial assistance and college access, public libraries, community centers, employers, and businesses, a comprehensive system of early financial aid information in order to provide students and families with early information about financial aid and early estimates of such students' eligibility for financial aid from multiple sources. Such system shall include the activities described in subsection (b).

(b) Communication of availability of aid and aid eligibility

(1) Students who receive benefits

The Secretary shall—

(A) make special efforts to notify students who receive or are eligible to receive benefits under a Federal means-tested benefit program (including the supplemental nutrition assistance program under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.)), or another such benefit program as determined by the Secretary, of such students' potential eligibility for the Federal Pell Grant amount, determined under section 1070a(b)(2)(A) of this title, for which the student would be eligible; and

(B) disseminate such informational materials, that are part of the system described in subsection (a), as the Secretary determines necessary.

(2) Secondary school students

The Secretary, in cooperation with States, institutions of higher education, other organizations involved in college access and student financial aid, secondary schools, and programs under this subchapter and part C of subchapter I of chapter 34 of title 42 that serve secondary school students, shall make special efforts to notify students in secondary school and their families, as early as possible but not later than such students' junior year of secondary school, of the availability of financial aid under this subchapter and part C of subchapter I of chapter 34 of title 42 and shall provide non-binding estimates of the amounts of grant and loan aid that an individual may be eligible for under this subchapter and part C of subchapter I of chapter 34 of title 42 upon completion of an application form under section 1090(a) of this title. The Secretary shall ensure that such information is as accurate as possible and that such information is provided in an age-appropriate format using dissemination mechanisms suitable for students in secondary school.

(3) Adult learners

The Secretary, in cooperation with States, institutions of higher education, other organizations involved in college access and student financial aid, employers, workforce investment boards, and public libraries, shall make special efforts to provide individuals who would qualify as independent students, as defined in section 1087vv(d) of this title, with information regarding the availability of financial aid under this title and with nonbinding

estimates of the amounts of grant and loan aid that an individual may be eligible for under this subchapter and part C of subchapter I of chapter 34 of title 42 upon completion of an application form under section 1090(a) of this title. The Secretary shall ensure that such information—

(A) is as accurate as possible;

(B) includes specific information regarding the availability of financial aid for students qualified as independent students, as defined in section 1087vv(d) of this title; and

(C) uses dissemination mechanisms suitable for adult learners.

(4) Public awareness campaign

Not later than two years after August 14, 2008, the Secretary, in coordination with States, institutions of higher education, early intervention and outreach programs under this subchapter and part C of subchapter I of chapter 34 of title 42, other agencies and organizations involved in college access and student financial aid, secondary schools, organizations that provide services to individuals that are or were homeless, to individuals in foster care, or to other disconnected individuals, local educational agencies, public libraries, community centers, businesses, employers, employment services, workforce investment boards, and movie theaters, shall implement a public awareness campaign in order to increase national awareness regarding the availability of financial aid under this title. The public awareness campaign shall disseminate accurate information regarding the availability of financial aid under this subchapter and part C of subchapter I of chapter 34 of title 42 and shall be implemented, to the extent practicable, using a variety of media, including print, television, radio, and the Internet. The Secretary shall design and implement the public awareness campaign based upon relevant independent research and the information and dissemination strategies found most effective in implementing paragraphs (1) through (3).

(Pub. L. 89-329, title IV, §485E, as added Pub. L. 110-315, title IV, §490, Aug. 14, 2008, 122 Stat. 3305; amended Pub. L. 111-152, title II, §2101(b)(5), Mar. 30, 2010, 124 Stat. 1073.)

REFERENCES IN TEXT

The Food and Nutrition Act of 2008, referred to in subsec. (b)(1)(A), is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

AMENDMENTS

2010—Subsec. (b)(1)(A). Pub. L. 111-152 substituted “of such students’ potential eligibility for the Federal Pell Grant amount, determined under section 1070a(b)(2)(A) of this title, for which the student would be eligible” for “of such students’ potential eligibility for a maximum Federal Pell Grant under subpart 1 of part A”.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-152 effective July 1, 2010, see section 2101(c) of Pub. L. 111-152, set out as a note under section 1070a of this title.

§ 1093. Distance education demonstration programs

(a) Purpose

It is the purpose of this section—

(1) to allow demonstration programs that are strictly monitored by the Department of Education to test the quality and viability of expanded distance education programs currently restricted under this chapter and part C of subchapter I of chapter 34 of title 42;

(2) to provide for increased student access to higher education through distance education programs; and

(3) to help determine—

(A) the most effective means of delivering quality education via distance education course offerings;

(B) the specific statutory and regulatory requirements which should be altered to provide greater access to high quality distance education programs; and

(C) the appropriate level of Federal assistance for students enrolled in distance education programs.

(b) Demonstration programs authorized

(1) In general

In accordance with the provisions of subsection (d) of this section, the Secretary is authorized to select institutions of higher education, systems of such institutions, or consortia of such institutions for voluntary participation in a Distance Education Demonstration Program that provides participating institutions with the ability to offer distance education programs that do not meet all or a portion of the sections or regulations described in paragraph (2).

(2) Waivers

The Secretary is authorized to waive for any institution of higher education, system of institutions of higher education, or consortium participating in a Distance Education Demonstration Program, the requirements of section 10877(5) of this title as the section relates to computer costs, sections 1088(a) and 1088(b) of this title as such sections relate to requirements for a minimum number of weeks of instruction, sections 1002(a)(3)(A), 1002(a)(3)(B), and 1091(l)(1) of this title, or one or more of the regulations prescribed under this part or part E of this subchapter which inhibit the operation of quality distance education programs.

(3) Eligible applicants

(A) Eligible institutions

Except as provided in subparagraphs (B), (C), and (D), only an institution of higher education that is eligible to participate in programs under this subchapter and part C of subchapter I of chapter 34 of title 42 shall be eligible to participate in the demonstration program authorized under this section.

(B) Prohibition

An institution of higher education described in section 1002(a)(1)(C) of this title shall not be eligible to participate in the demonstration program authorized under this section.

(C) Special rule

Subject to subparagraph (B), an institution of higher education that meets the requirements of subsection (a) of section 1002 of this title, other than the requirement of paragraph (3)(A) or (3)(B) of such subsection, and that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree, shall be eligible to participate in the demonstration program authorized under this section.

(D) Requirement

Notwithstanding any other provision of this paragraph, Western Governors University shall be considered eligible to participate in the demonstration program authorized under this section. In addition to the waivers described in paragraph (2), the Secretary may waive the provisions of subchapter I of this chapter and this part and part G of this subchapter for such university that the Secretary determines to be appropriate because of the unique characteristics of such university. In carrying out the preceding sentence, the Secretary shall ensure that adequate program integrity and accountability measures apply to such university's participation in the demonstration program authorized under this section.

(e) Application

(1) In general

Each institution, system, or consortium of institutions desiring to participate in a demonstration program under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(2) Contents

Each application shall include—

(A) a description of the institution, system, or consortium's consultation with a recognized accrediting agency or association with respect to quality assurances for the distance education programs to be offered;

(B) a description of the statutory and regulatory requirements described in subsection (b)(2) of this section or, if applicable, subsection (b)(3)(D) of this section for which a waiver is sought and the reasons for which the waiver is sought;

(C) a description of the distance education programs to be offered;

(D) a description of the students to whom distance education programs will be offered;

(E) an assurance that the institution, system, or consortium will offer full cooperation with the ongoing evaluations of the demonstration program provided for in this section; and

(F) such other information as the Secretary may require.

(d) Selection

(1) In general

For the first year of the demonstration program authorized under this section, the Secretary is authorized to select for participation

in the program not more than 15 institutions, systems of institutions, or consortia of institutions. For the third year of the demonstration program authorized under this section, the Secretary may select not more than 35 institutions, systems, or consortia, in addition to the institutions, systems, or consortia selected pursuant to the preceding sentence, to participate in the demonstration program if the Secretary determines that such expansion is warranted based on the evaluations conducted in accordance with subsections (f) and (g) of this section.

(2) Considerations

In selecting institutions to participate in the demonstration program in the first or succeeding years of the program, the Secretary shall take into account—

- (A) the number and quality of applications received;
- (B) the Department's capacity to oversee and monitor each institution's participation;
- (C) an institution's—
 - (i) financial responsibility;
 - (ii) administrative capability; and
 - (iii) program or programs being offered via distance education; and
- (D) ensuring the participation of a diverse group of institutions with respect to size, mission, and geographic distribution.

(e) Notification

The Secretary shall make available to the public and to the authorizing committees a list of institutions, systems or consortia selected to participate in the demonstration program authorized by this section. Such notice shall include a listing of the specific statutory and regulatory requirements being waived for each institution, system or consortium and a description of the distance education courses to be offered.

(f) Evaluations and reports

(1) Evaluation

The Secretary shall evaluate the demonstration programs authorized under this section on an annual basis. Such evaluations specifically shall review—

- (A) the extent to which the institution, system or consortium has met the goals set forth in its application to the Secretary, including the measures of program quality assurance;
- (B) the number and types of students participating in the programs offered, including the progress of participating students toward recognized certificates or degrees and the extent to which participation in such programs increased;
- (C) issues related to student financial assistance for distance education;
- (D) effective technologies for delivering distance education course offerings; and
- (E) the extent to which statutory or regulatory requirements not waived under the demonstration program present difficulties for students or institutions.

(2) Policy analysis

The Secretary shall review current policies and identify those policies that present im-

pediments to the development and use of distance education and other nontraditional methods of expanding access to education.

(3) Annual reports

The Secretary shall provide reports to the authorizing committees on an annual basis regarding—

- (A) the demonstration programs authorized under this section; and
- (B) the number and types of students receiving assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 for instruction leading to a recognized certificate, as provided for in section 1091(l)(1) of this title, including the progress of such students toward recognized certificates and the degree to which participation in such programs leading to such certificates increased.

(g) Oversight

In conducting the demonstration program authorized under this section, the Secretary shall, on a continuing basis—

- (1) assure compliance of institutions, systems or consortia with the requirements of this subchapter and part C of subchapter I of chapter 34 of title 42 (other than the sections and regulations that are waived under subsections (b)(2) and (b)(3)(D) of this section);
- (2) provide technical assistance;
- (3) monitor fluctuations in the student population enrolled in the participating institutions, systems or consortia; and
- (4) consult with appropriate accrediting agencies or associations and appropriate State regulatory authorities.

(h) "Distance education" defined

For the purpose of this section, the term "distance education" means an educational process that is characterized by the separation, in time or place, between instructor and student. Such term may include courses offered principally through the use of—

- (1) television, audio, or computer transmission, such as open broadcast, closed circuit, cable, microwave, or satellite transmission;
- (2) audio or computer conferencing;
- (3) video cassettes or discs; or
- (4) correspondence.

(Pub. L. 89-329, title IV, § 486, as added Pub. L. 99-498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1487; amended Pub. L. 102-325, title IV, § 489, July 23, 1992, 106 Stat. 624; Pub. L. 105-244, title IV, § 488, Oct. 7, 1998, 112 Stat. 1746; Pub. L. 110-315, title I, § 103(b)(12), title IV, § 491, Aug. 14, 2008, 122 Stat. 3090, 3307.)

PRIOR PROVISIONS

A prior section 1093, Pub. L. 89-329, title IV, § 486, as added Pub. L. 96-374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1450, related to training in financial aid and student support services, prior to the general revision of this part by Pub. L. 99-498.

AMENDMENTS

2008—Subsec. (e). Pub. L. 110-315, § 103(b)(12), substituted "authorizing committees" for "Committee on Labor and Human Resources of the Senate and the

Committee on Education and the Workforce of the House of Representatives”.

Subsec. (f)(3). Pub. L. 110-315, § 491, substituted “Annual reports” for “Reports” in heading, in subpar. (B) redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, and adjusted their margins, and substituted “The Secretary shall provide reports to the authorizing committees on an annual basis” for former subpar. (A) which required Secretary to report to congressional committees on evaluations of demonstration programs and for introductory provisions of former subpar. (B) which related to additional annual reports.

1998—Pub. L. 105-244 amended section catchline and text generally. Prior to amendment, section authorized Secretary to make grants to nonprofit private organizations to provide training for student financial aid administrators and TRIO personnel.

1992—Pub. L. 102-325 struck out “and student support” after “aid” in section catchline and amended text generally, substituting present provisions for former subsec. (a) relating to program authority, subsec. (b) relating to use of funds, and subsec. (c) relating to authorization of appropriations.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

§ 1093a. Articulation agreements

(a) Definition

In this section, the term “articulation agreement” means an agreement between or among institutions of higher education that specifies the acceptability of courses in transfer toward meeting specific degree or program requirements.

(b) Program to encourage articulation agreements

(1) Program established

The Secretary shall carry out a program for States, in cooperation with public institutions of higher education, to develop, enhance, and implement comprehensive articulation agreements between or among such institutions in a State, and (to the extent practicable) across State lines, by 2010. Such articulation agreements shall be made widely and publicly available on the websites of States and such institutions. In developing, enhancing, and implementing articulation agreements, States and public institutions of higher education may employ strategies, where applicable, including—

- (A) common course numbering;
- (B) a general education core curriculum;
- (C) management systems regarding course equivalency, transfer of credit, and articulation; and
- (D) other strategies identified by the Secretary.

(2) Technical assistance provided

The Secretary shall provide technical assistance to States and public institutions of higher education for the purposes of developing and implementing articulation agreements in accordance with this subsection.

(3) Rule of construction

Nothing in this subsection shall be construed to authorize the Secretary to require

particular policies, procedures, or practices by institutions of higher education with respect to articulation agreements.

(Pub. L. 89-329, title IV, § 486A, as added Pub. L. 110-315, title IV, § 492, Aug. 14, 2008, 122 Stat. 3307.)

§ 1094. Program participation agreements

(a) Required for programs of assistance; contents

In order to be an eligible institution for the purposes of any program authorized under this subchapter and part C of subchapter I of chapter 34 of title 42, an institution must be an institution of higher education or an eligible institution (as that term is defined for the purpose of that program) and shall, except with respect to a program under subpart 4 of part A of this subchapter, enter into a program participation agreement with the Secretary. The agreement shall condition the initial and continuing eligibility of an institution to participate in a program upon compliance with the following requirements:

(1) The institution will use funds received by it for any program under this subchapter and part C of subchapter I of chapter 34 of title 42 and any interest or other earnings thereon solely for the purpose specified in and in accordance with the provision of that program.

(2) The institution shall not charge any student a fee for processing or handling any application, form, or data required to determine the student's eligibility for assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 or the amount of such assistance.

(3) The institution will establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under this subchapter and part C of subchapter I of chapter 34 of title 42, together with assurances that the institution will provide, upon request and in a timely fashion, information relating to the administrative capability and financial responsibility of the institution to—

- (A) the Secretary;
- (B) the appropriate guaranty agency; and
- (C) the appropriate accrediting agency or association.

(4) The institution will comply with the provisions of subsection (c) of this section and the regulations prescribed under that subsection, relating to fiscal eligibility.

(5) The institution will submit reports to the Secretary and, in the case of an institution participating in a program under part B or part D of this subchapter, to holders of loans made to the institution's students under such parts at such times and containing such information as the Secretary may reasonably require to carry out the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42.

(6) The institution will not provide any student with any statement or certification to any lender under part B of this subchapter that qualifies the student for a loan or loans

in excess of the amount that student is eligible to borrow in accordance with sections 1075(a), 1078(a)(2), and 1078(b)(1)(A) and (B) of this title.

(7) The institution will comply with the requirements of section 1092 of this title.

(8) In the case of an institution that advertises job placement rates as a means of attracting students to enroll in the institution, the institution will make available to prospective students, at or before the time of application (A) the most recent available data concerning employment statistics, graduation statistics, and any other information necessary to substantiate the truthfulness of the advertisements, and (B) relevant State licensing requirements of the State in which such institution is located for any job for which the course of instruction is designed to prepare such prospective students.

(9) In the case of an institution participating in a program under part B or C of this subchapter, the institution will inform all eligible borrowers enrolled in the institution about the availability and eligibility of such borrowers for State grant assistance from the State in which the institution is located, and will inform such borrowers from another State of the source for further information concerning such assistance from that State.

(10) The institution certifies that it has in operation a drug abuse prevention program that is determined by the institution to be accessible to any officer, employee, or student at the institution.

(11) In the case of any institution whose students receive financial assistance pursuant to section 1091(d) of this title, the institution will make available to such students a program proven successful in assisting students in obtaining a certificate of high school equivalency.

(12) The institution certifies that—

(A) the institution has established a campus security policy; and

(B) the institution has complied with the disclosure requirements of section 1092(f) of this title.

(13) The institution will not deny any form of Federal financial aid to any student who meets the eligibility requirements of this subchapter and part C of subchapter I of chapter 34 of title 42 on the grounds that the student is participating in a program of study abroad approved for credit by the institution.

(14)(A) The institution, in order to participate as an eligible institution under part B or C of this subchapter, will develop a Default Management Plan for approval by the Secretary as part of its initial application for certification as an eligible institution and will implement such Plan for two years thereafter.

(B) Any institution of higher education which changes ownership and any eligible institution which changes its status as a parent or subordinate institution shall, in order to participate as an eligible institution under part B or C of this subchapter, develop a Default Management Plan for approval by the Secretary and implement such Plan for two years after its change of ownership or status.

(C) This paragraph shall not apply in the case of an institution in which (i) neither the parent nor the subordinate institution has a cohort default rate in excess of 10 percent, and (ii) the new owner of such parent or subordinate institution does not, and has not, owned any other institution with a cohort default rate in excess of 10 percent.

(15) The institution acknowledges the authority of the Secretary, guaranty agencies, lenders, accrediting agencies, the Secretary of Veterans Affairs, and the State agencies under subpart 1 of part G of this subchapter to share with each other any information pertaining to the institution's eligibility to participate in programs under this subchapter and part C of subchapter I of chapter 34 of title 42 or any information on fraud and abuse.

(16)(A) The institution will not knowingly employ an individual in a capacity that involves the administration of programs under this subchapter and part C of subchapter I of chapter 34 of title 42, or the receipt of program funds under this subchapter and part C of subchapter I of chapter 34 of title 42, who has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this subchapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under this subchapter and part C of subchapter I of chapter 34 of title 42, or contract with an institution or third party servicer that has been terminated under section 1082 of this title involving the acquisition, use, or expenditure of funds under this subchapter and part C of subchapter I of chapter 34 of title 42, or who has been judicially determined to have committed fraud involving funds under this subchapter and part C of subchapter I of chapter 34 of title 42.

(B) The institution will not knowingly contract with or employ any individual, agency, or organization that has been, or whose officers or employees have been—

(i) convicted of, or pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this subchapter and part C of subchapter I of chapter 34 of title 42; or

(ii) judicially determined to have committed fraud involving funds under this subchapter and part C of subchapter I of chapter 34 of title 42.

(17) The institution will complete surveys conducted as a part of the Integrated Postsecondary Education Data System (IPEDS) or any other Federal postsecondary institution data collection effort, as designated by the Secretary, in a timely manner and to the satisfaction of the Secretary.

(18) The institution will meet the requirements established pursuant to section 1092(g) of this title.

(19) The institution will not impose any penalty, including the assessment of late fees, the denial of access to classes, libraries, or other institutional facilities, or the requirement that the student borrow additional funds, on any student because of the student's inability

to meet his or her financial obligations to the institution as a result of the delayed disbursement of the proceeds of a loan made under this subchapter and part C of subchapter I of chapter 34 of title 42 due to compliance with the provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, or delays attributable to the institution.

(20) The institution will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance, except that this paragraph shall not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance.

(21) The institution will meet the requirements established by the Secretary and accrediting agencies or associations, and will provide evidence to the Secretary that the institution has the authority to operate within a State.

(22) The institution will comply with the refund policy established pursuant to section 1091b of this title.

(23)(A) The institution, if located in a State to which section 1973gg-2(b) of title 42 does not apply, will make a good faith effort to distribute a mail voter registration form, requested and received from the State, to each student enrolled in a degree or certificate program and physically in attendance at the institution, and to make such forms widely available to students at the institution.

(B) The institution shall request the forms from the State 120 days prior to the deadline for registering to vote within the State. If an institution has not received a sufficient quantity of forms to fulfill this section from the State within 60 days prior to the deadline for registering to vote in the State, the institution shall not be held liable for not meeting the requirements of this section during that election year.

(C) This paragraph shall apply to general and special elections for Federal office, as defined in section 431(3) of title 2, and to the elections for Governor or other chief executive within such State).¹

(D) The institution shall be considered in compliance with the requirements of subparagraph (A) for each student to whom the institution electronically transmits a message containing a voter registration form acceptable for use in the State in which the institution is located, or an Internet address where such a form can be downloaded, if such information is in an electronic message devoted exclusively to voter registration.

(24) In the case of a proprietary institution of higher education (as defined in section 1002(b) of this title), such institution will derive not less than ten percent of such institution's revenues from sources other than funds

provided under this subchapter and part C of subchapter I of chapter 34 of title 42, as calculated in accordance with subsection (d)(1), or will be subject to the sanctions described in subsection (d)(2).

(25) In the case of an institution that participates in a loan program under this subchapter and part C of subchapter I of chapter 34 of title 42, the institution will—

(A) develop a code of conduct with respect to such loans with which the institution's officers, employees, and agents shall comply, that—

(i) prohibits a conflict of interest with the responsibilities of an officer, employee, or agent of an institution with respect to such loans; and

(ii) at a minimum, includes the provisions described in subsection (e);

(B) publish such code of conduct prominently on the institution's website; and

(C) administer and enforce such code by, at a minimum, requiring that all of the institution's officers, employees, and agents with responsibilities with respect to such loans be annually informed of the provisions of the code of conduct.

(26) The institution will, upon written request, disclose to the alleged victim of any crime of violence (as that term is defined in section 16 of title 18), or a nonforcible sex offense, the report on the results of any disciplinary proceeding conducted by such institution against a student who is the alleged perpetrator of such crime or offense with respect to such crime or offense. If the alleged victim of such crime or offense is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

(27) In the case of an institution that has entered into a preferred lender arrangement, the institution will at least annually compile, maintain, and make available for students attending the institution, and the families of such students, a list, in print or other medium, of the specific lenders for loans made, insured, or guaranteed under this subchapter and part C of subchapter I of chapter 34 of title 42 or private education loans that the institution recommends, promotes, or endorses in accordance with such preferred lender arrangement. In making such list, the institution shall comply with the requirements of subsection (h).

(28)(A) The institution will, upon the request of an applicant for a private education loan, provide to the applicant the form required under section 1638(e)(3) of title 15, and the information required to complete such form, to the extent the institution possesses such information.

(B) For purposes of this paragraph, the term "private education loan" has the meaning given such term in section 1650 of title 15.

(29) The institution certifies that the institution—

(A) has developed plans to effectively combat the unauthorized distribution of copyrighted material, including through the use

¹ So in original. The closing parenthesis probably should not appear.

of a variety of technology-based deterrents; and

(B) will, to the extent practicable, offer alternatives to illegal downloading or peer-to-peer distribution of intellectual property, as determined by the institution in consultation with the chief technology officer or other designated officer of the institution.

(b) Hearings

(1) An institution that has received written notice of a final audit or program review determination and that desires to have such determination reviewed by the Secretary shall submit to the Secretary a written request for review not later than 45 days after receipt of notification of the final audit or program review determination.

(2) The Secretary shall, upon receipt of written notice under paragraph (1), arrange for a hearing and notify the institution within 30 days of receipt of such notice the date, time, and place of such hearing. Such hearing shall take place not later than 120 days from the date upon which the Secretary notifies the institution.

(c) Audits; financial responsibility; enforcement of standards

(1) Notwithstanding any other provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary shall prescribe such regulations as may be necessary to provide for—

(A)(i) except as provided in clauses (ii) and (iii), a financial audit of an eligible institution with regard to the financial condition of the institution in its entirety, and a compliance audit of such institution with regard to any funds obtained by it under this subchapter and part C of subchapter I of chapter 34 of title 42 or obtained from a student or a parent who has a loan insured or guaranteed by the Secretary under this subchapter and part C of subchapter I of chapter 34 of title 42, on at least an annual basis and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary and shall be available to cognizant guaranty agencies, eligible lenders, State agencies, and the appropriate State agency notifying the Secretary under subpart 1 of part G of this subchapter, except that the Secretary may modify the requirements of this clause with respect to institutions of higher education that are foreign institutions, and may waive such requirements with respect to a foreign institution whose students receive less than \$500,000 in loans under this subchapter and part C of subchapter I of chapter 34 of title 42 during the award year preceding the audit period;

(ii) with regard to an eligible institution which is audited under chapter 75 of title 31, deeming such audit to satisfy the requirements of clause (i) for the period covered by such audit; or

(iii) at the discretion of the Secretary, with regard to an eligible institution (other than an

eligible institution described in section 1002(a)(1)(C) of this title) that has obtained less than \$200,000 in funds under this subchapter and part C of subchapter I of chapter 34 of title 42 during each of the 2 award years that precede the audit period and submits a letter of credit payable to the Secretary equal to not less than $\frac{1}{2}$ of the annual potential liabilities of such institution as determined by the Secretary, deeming an audit conducted every 3 years to satisfy the requirements of clause (i), except for the award year immediately preceding renewal of the institution's eligibility under section 1099c(g) of this title;

(B) in matters not governed by specific program provisions, the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this subchapter and part C of subchapter I of chapter 34 of title 42, including any matter the Secretary deems necessary to the sound administration of the financial aid programs, such as the pertinent actions of any owner, shareholder, or person exercising control over an eligible institution;

(C)(i) except as provided in clause (ii), a compliance audit of a third party servicer (other than with respect to the servicer's functions as a lender if such functions are otherwise audited under this part and such audits meet the requirements of this clause), with regard to any contract with an eligible institution, guaranty agency, or lender for administering or servicing any aspect of the student assistance programs under this subchapter and part C of subchapter I of chapter 34 of title 42, at least once every year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a third party servicer that is audited under chapter 75 of title 31, such audit shall be deemed to satisfy the requirements of clause (i) for the period covered by such audit;

(D)(i) a compliance audit of a secondary market with regard to its transactions involving, and its servicing and collection of, loans made under this subchapter and part C of subchapter I of chapter 34 of title 42, at least once a year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a secondary market that is audited under chapter 75 of title 31, such audit shall be deemed to satisfy the requirements of clause (i) for the period covered by the audit;

(E) the establishment, by each eligible institution under part B of this subchapter responsible for furnishing to the lender the statement required by section 1078(a)(2)(A)(i) of this title, of policies and procedures by which the latest known address and enrollment status of any student who has had a loan insured under this part and who has either formally terminated his enrollment, or failed to re-enroll on at least a half-time basis, at such institution, shall be furnished either to the holder (or if unknown, the insurer) of the note, not later than 60 days after such termination or failure to re-enroll;

(F) the limitation, suspension, or termination of the participation in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 of an eligible institution, or the imposition of a civil penalty under paragraph (3)(B) whenever the Secretary has determined, after reasonable notice and opportunity for hearing, that such institution has violated or failed to carry out any provision of this subchapter and part C of subchapter I of chapter 34 of title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, or any applicable special arrangement, agreement, or limitation, except that no period of suspension under this section shall exceed 60 days unless the institution and the Secretary agree to an extension or unless limitation or termination proceedings are initiated by the Secretary within that period of time;

(G) an emergency action against an institution, under which the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to the institution (by registered mail, return receipt requested), withhold funds from the institution or its students and withdraw the institution's authority to obligate funds under any program under this subchapter and part C of subchapter I of chapter 34 of title 42, if the Secretary—

(i) receives information, determined by the Secretary to be reliable, that the institution is violating any provision of this subchapter and part C of subchapter I of chapter 34 of title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, or any applicable special arrangement, agreement, or limitation,

(ii) determines that immediate action is necessary to prevent misuse of Federal funds, and

(iii) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (D) for limitation, suspension, or termination,

except that an emergency action shall not exceed 30 days unless limitation, suspension, or termination proceedings are initiated by the Secretary against the institution within that period of time, and except that the Secretary shall provide the institution an opportunity to show cause, if it so requests, that the emergency action is unwarranted;

(H) the limitation, suspension, or termination of the eligibility of a third party servicer to contract with any institution to ad-

minister any aspect of an institution's student assistance program under this subchapter and part C of subchapter I of chapter 34 of title 42, or the imposition of a civil penalty under paragraph (3)(B), whenever the Secretary has determined, after reasonable notice and opportunity for a hearing, that such organization, acting on behalf of an institution, has violated or failed to carry out any provision of this subchapter and part C of subchapter I of chapter 34 of title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, or any applicable special arrangement, agreement, or limitation, except that no period of suspension under this subparagraph shall exceed 60 days unless the organization and the Secretary agree to an extension, or unless limitation or termination proceedings are initiated by the Secretary against the individual or organization within that period of time; and

(I) an emergency action against a third party servicer that has contracted with an institution to administer any aspect of the institution's student assistance program under this subchapter and part C of subchapter I of chapter 34 of title 42, under which the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to such individual or organization (by registered mail, return receipt requested), withhold funds from the individual or organization and withdraw the individual or organization's authority to act on behalf of an institution under any program under this subchapter and part C of subchapter I of chapter 34 of title 42, if the Secretary—

(i) receives information, determined by the Secretary to be reliable, that the individual or organization, acting on behalf of an institution, is violating any provision of this subchapter and part C of subchapter I of chapter 34 of title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, or any applicable special arrangement, agreement, or limitation,

(ii) determines that immediate action is necessary to prevent misuse of Federal funds, and

(iii) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (F), for limitation, suspension, or termination,

except that an emergency action shall not exceed 30 days unless the limitation, suspension, or termination proceedings are initiated by the Secretary against the individual or organization within that period of time, and except that the Secretary shall provide the individual or organization an opportunity to show cause, if it so requests, that the emergency action is unwarranted.

(2) If an individual who, or entity that, exercises substantial control, as determined by the Secretary in accordance with the definition of substantial control in subpart 3 of part G of this subchapter, over one or more institutions participating in any program under this subchapter and part C of subchapter I of chapter 34 of title

42, or, for purposes of paragraphs (1)(H) and (I), over one or more organizations that contract with an institution to administer any aspect of the institution's student assistance program under this subchapter and part C of subchapter I of chapter 34 of title 42, is determined to have committed one or more violations of the requirements of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, or has been suspended or debarred in accordance with the regulations of the Secretary, the Secretary may use such determination, suspension, or debarment as the basis for imposing an emergency action on, or limiting, suspending, or terminating, in a single proceeding, the participation of any or all institutions under the substantial control of that individual or entity.

(3)(A) Upon determination, after reasonable notice and opportunity for a hearing, that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Secretary may suspend or terminate the eligibility status for any or all programs under this subchapter and part C of subchapter I of chapter 34 of title 42 of any otherwise eligible institution, in accordance with procedures specified in paragraph (1)(D) of this subsection, until the Secretary finds that such practices have been corrected.

(B)(i) Upon determination, after reasonable notice and opportunity for a hearing, that an eligible institution—

(I) has violated or failed to carry out any provision of this subchapter and part C of subchapter I of chapter 34 of title 42 or any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42; or

(II) has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, and the employability of its graduates,

the Secretary may impose a civil penalty upon such institution of not to exceed \$25,000 for each violation or misrepresentation.

(ii) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.

(4) The Secretary shall publish a list of State agencies which the Secretary determines to be reliable authority as to the quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs.

(5) The Secretary shall make readily available to appropriate guaranty agencies, eligible lenders, State agencies notifying the Secretary under subpart 1 of part G of this subchapter, and accrediting agencies or associations the results

of the audits of eligible institutions conducted pursuant to paragraph (1)(A).

(6) The Secretary is authorized to provide any information collected as a result of audits conducted under this section, together with audit information collected by guaranty agencies, to any Federal or State agency having responsibilities with respect to student financial assistance, including those referred to in subsection (a)(15) of this section.

(7) Effective with respect to any audit conducted under this subsection after December 31, 1988, if, in the course of conducting any such audit, the personnel of the Department of Education discover, or are informed of, grants or other assistance provided by an institution in accordance with this subchapter and part C of subchapter I of chapter 34 of title 42 for which the institution has not received funds appropriated under this subchapter and part C of subchapter I of chapter 34 of title 42 (in the amount necessary to provide such assistance), including funds for which reimbursement was not requested prior to such discovery or information, such institution shall be permitted to offset that amount against any sums determined to be owed by the institution pursuant to such audit, or to receive reimbursement for that amount (if the institution does not owe any such sums).

(d) Implementation of non-title IV revenue requirement

(1) Calculation

In making calculations under subsection (a)(24), a proprietary institution of higher education shall—

(A) use the cash basis of accounting, except in the case of loans described in subparagraph (D)(i) that are made by the proprietary institution of higher education;

(B) consider as revenue only those funds generated by the institution from—

(i) tuition, fees, and other institutional charges for students enrolled in programs eligible for assistance under this subchapter and part C of subchapter I of chapter 34 of title 42;

(ii) activities conducted by the institution that are necessary for the education and training of the institution's students, if such activities are—

(I) conducted on campus or at a facility under the control of the institution;

(II) performed under the supervision of a member of the institution's faculty; and

(III) required to be performed by all students in a specific educational program at the institution; and

(iii) funds paid by a student, or on behalf of a student by a party other than the institution, for an education or training program that is not eligible for funds under this subchapter and part C of subchapter I of chapter 34 of title 42, if the program—

(I) is approved or licensed by the appropriate State agency;

(II) is accredited by an accrediting agency recognized by the Secretary; or

(III) provides an industry-recognized credential or certification;

(C) presume that any funds for a program under this subchapter and part C of subchapter I of chapter 34 of title 42 that are disbursed or delivered to or on behalf of a student will be used to pay the student's tuition, fees, or other institutional charges, regardless of whether the institution credits those funds to the student's account or pays those funds directly to the student, except to the extent that the student's tuition, fees, or other institutional charges are satisfied by—

(i) grant funds provided by non-Federal public agencies or private sources independent of the institution;

(ii) funds provided under a contractual arrangement with a Federal, State, or local government agency for the purpose of providing job training to low-income individuals who are in need of that training;

(iii) funds used by a student from savings plans for educational expenses established by or on behalf of the student and which qualify for special tax treatment under title 26; or

(iv) institutional scholarships described in subparagraph (D)(iii);

(D) include institutional aid as revenue to the school only as follows:

(i) in the case of loans made by a proprietary institution of higher education on or after July 1, 2008 and prior to July 1, 2012, the net present value of such loans made by the institution during the applicable institutional fiscal year accounted for on an accrual basis and estimated in accordance with generally accepted accounting principles and related standards and guidance, if the loans—

(I) are bona fide as evidenced by enforceable promissory notes;

(II) are issued at intervals related to the institution's enrollment periods; and

(III) are subject to regular loan repayments and collections;

(ii) in the case of loans made by a proprietary institution of higher education on or after July 1, 2012, only the amount of loan repayments received during the applicable institutional fiscal year, excluding repayments on loans made and accounted for as specified in clause (i); and

(iii) in the case of scholarships provided by a proprietary institution of higher education, only those scholarships provided by the institution in the form of monetary aid or tuition discounts based upon the academic achievements or financial need of students, disbursed during each fiscal year from an established restricted account, and only to the extent that funds in that account represent designated funds from an outside source or from income earned on those funds;

(E) in the case of each student who receives a loan on or after July 1, 2008, and prior to July 1, 2011, that is authorized under section 1078-8 of this title or that is a Federal Direct Unsubsidized Stafford Loan, treat as revenue received by the institution

from sources other than funds received under this subchapter and part C of subchapter I of chapter 34 of title 42, the amount by which the disbursement of such loan received by the institution exceeds the limit on such loan in effect on the day before May 7, 2008; and

(F) exclude from revenues—

(i) the amount of funds the institution received under part C of subchapter I of chapter 34 of title 42, unless the institution used those funds to pay a student's institutional charges;

(ii) the amount of funds the institution received under subpart 4 of part A;

(iii) the amount of funds provided by the institution as matching funds for a program under this subchapter and part C of subchapter I of chapter 34 of title 42;

(iv) the amount of funds provided by the institution for a program under this subchapter and part C of subchapter I of chapter 34 of title 42 that are required to be refunded or returned; and

(v) the amount charged for books, supplies, and equipment, unless the institution includes that amount as tuition, fees, or other institutional charges.

(2) Sanctions

(A) Ineligibility

A proprietary institution of higher education that fails to meet a requirement of subsection (a)(24) for two consecutive institutional fiscal years shall be ineligible to participate in the programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42 for a period of not less than two institutional fiscal years. To regain eligibility to participate in the programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42, a proprietary institution of higher education shall demonstrate compliance with all eligibility and certification requirements under section 1099c of this title for a minimum of two institutional fiscal years after the institutional fiscal year in which the institution became ineligible.

(B) Additional enforcement

In addition to such other means of enforcing the requirements of this subchapter and part C of subchapter I of chapter 34 of title 42 as may be available to the Secretary, if a proprietary institution of higher education fails to meet a requirement of subsection (a)(24) for any institutional fiscal year, then the institution's eligibility to participate in the programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42 becomes provisional for the two institutional fiscal years after the institutional fiscal year in which the institution failed to meet the requirement of subsection (a)(24), except that such provisional eligibility shall terminate—

(i) on the expiration date of the institution's program participation agreement under this subsection that is in effect on the date the Secretary determines that the

institution failed to meet the requirement of subsection (a)(24); or

(ii) in the case that the Secretary determines that the institution failed to meet a requirement of subsection (a)(24) for two consecutive institutional fiscal years, on the date the institution is determined ineligible in accordance with subparagraph (A).

(3) Publication on college navigator website

The Secretary shall publicly disclose on the College Navigator website—

(A) the identity of any proprietary institution of higher education that fails to meet a requirement of subsection (a)(24); and

(B) the extent to which the institution failed to meet such requirement.

(4) Report to Congress

Not later than July 1, 2009, and July 1 of each succeeding year, the Secretary shall submit to the authorizing committees a report that contains, for each proprietary institution of higher education that receives assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, as provided in the audited financial statements submitted to the Secretary by each institution pursuant to the requirements of subsection (a)(24)—

(A) the amount and percentage of such institution's revenues received from sources under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(B) the amount and percentage of such institution's revenues received from other sources.

(e) Code of conduct requirements

An institution of higher education's code of conduct, as required under subsection (a)(25), shall include the following requirements:

(1) Ban on revenue-sharing arrangements

(A) Prohibition

The institution shall not enter into any revenue-sharing arrangement with any lender.

(B) Definition

For purposes of this paragraph, the term "revenue-sharing arrangement" means an arrangement between an institution and a lender under which—

(i) a lender provides or issues a loan that is made, insured, or guaranteed under this subchapter and part C of subchapter I of chapter 34 of title 42 to students attending the institution or to the families of such students; and

(ii) the institution recommends the lender or the loan products of the lender and in exchange, the lender pays a fee or provides other material benefits, including revenue or profit sharing, to the institution, an officer or employee of the institution, or an agent.

(2) Gift ban

(A) Prohibition

No officer or employee of the institution who is employed in the financial aid office of

the institution or who otherwise has responsibilities with respect to education loans, or agent who has responsibilities with respect to education loans, shall solicit or accept any gift from a lender, guarantor, or servicer of education loans.

(B) Definition of gift

(i) In general

In this paragraph, the term "gift" means any gratuity, favor, discount, entertainment, hospitality, loan, or other item having a monetary value of more than a de minimus amount. The term includes a gift of services, transportation, lodging, or meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

(ii) Exceptions

The term "gift" shall not include any of the following:

(I) Standard material, activities, or programs on issues related to a loan, default aversion, default prevention, or financial literacy, such as a brochure, a workshop, or training.

(II) Food, refreshments, training, or informational material furnished to an officer or employee of an institution, or to an agent, as an integral part of a training session that is designed to improve the service of a lender, guarantor, or servicer of education loans to the institution, if such training contributes to the professional development of the officer, employee, or agent.

(III) Favorable terms, conditions, and borrower benefits on an education loan provided to a student employed by the institution if such terms, conditions, or benefits are comparable to those provided to all students of the institution.

(IV) Entrance and exit counseling services provided to borrowers to meet the institution's responsibilities for entrance and exit counseling as required by subsections (b) and (l) of section 1092 of this title, as long as—

(aa) the institution's staff are in control of the counseling, (whether in person or via electronic capabilities); and

(bb) such counseling does not promote the products or services of any specific lender.

(V) Philanthropic contributions to an institution from a lender, servicer, or guarantor of education loans that are unrelated to education loans or any contribution from any lender, guarantor, or servicer that is not made in exchange for any advantage related to education loans.

(VI) State education grants, scholarships, or financial aid funds administered by or on behalf of a State.

(iii) Rule for gifts to family members

For purposes of this paragraph, a gift to a family member of an officer or employee

of an institution, to a family member of an agent, or to any other individual based on that individual's relationship with the officer, employee, or agent, shall be considered a gift to the officer, employee, or agent if—

(I) the gift is given with the knowledge and acquiescence of the officer, employee, or agent; and

(II) the officer, employee, or agent has reason to believe the gift was given because of the official position of the officer, employee, or agent.

(3) Contracting arrangements prohibited

(A) Prohibition

An officer or employee who is employed in the financial aid office of the institution or who otherwise has responsibilities with respect to education loans, or an agent who has responsibilities with respect to education loans, shall not accept from any lender or affiliate of any lender any fee, payment, or other financial benefit (including the opportunity to purchase stock) as compensation for any type of consulting arrangement or other contract to provide services to a lender or on behalf of a lender relating to education loans.

(B) Exceptions

Nothing in this subsection shall be construed as prohibiting—

(i) an officer or employee of an institution who is not employed in the institution's financial aid office and who does not otherwise have responsibilities with respect to education loans, or an agent who does not have responsibilities with respect to education loans, from performing paid or unpaid service on a board of directors of a lender, guarantor, or servicer of education loans;

(ii) an officer or employee of the institution who is not employed in the institution's financial aid office but who has responsibility with respect to education loans as a result of a position held at the institution, or an agent who has responsibility with respect to education loans, from performing paid or unpaid service on a board of directors of a lender, guarantor, or servicer of education loans, if the institution has a written conflict of interest policy that clearly sets forth that officers, employees, or agents must recuse themselves from participating in any decision of the board regarding education loans at the institution; or

(iii) an officer, employee, or contractor of a lender, guarantor, or servicer of education loans from serving on a board of directors, or serving as a trustee, of an institution, if the institution has a written conflict of interest policy that the board member or trustee must recuse themselves from any decision regarding education loans at the institution.

(4) Interaction with borrowers

The institution shall not—

(A) for any first-time borrower, assign, through award packaging or other methods, the borrower's loan to a particular lender; or

(B) refuse to certify, or delay certification of, any loan based on the borrower's selection of a particular lender or guaranty agency.

(5) Prohibition on offers of funds for private loans

(A) Prohibition

The institution shall not request or accept from any lender any offer of funds to be used for private education loans (as defined in section 1650 of title 15), including funds for an opportunity pool loan, to students in exchange for the institution providing concessions or promises regarding providing the lender with—

(i) a specified number of loans made, insured, or guaranteed under this subchapter and part C of subchapter I of chapter 34 of title 42;

(ii) a specified loan volume of such loans; or

(iii) a preferred lender arrangement for such loans.

(B) Definition of opportunity pool loan

In this paragraph, the term “opportunity pool loan” means a private education loan made by a lender to a student attending the institution or the family member of such a student that involves a payment, directly or indirectly, by such institution of points, premiums, additional interest, or financial support to such lender for the purpose of such lender extending credit to the student or the family.

(6) Ban on staffing assistance

(A) Prohibition

The institution shall not request or accept from any lender any assistance with call center staffing or financial aid office staffing.

(B) Certain assistance permitted

Nothing in paragraph (1) shall be construed to prohibit the institution from requesting or accepting assistance from a lender related to—

(i) professional development training for financial aid administrators;

(ii) providing educational counseling materials, financial literacy materials, or debt management materials to borrowers, provided that such materials disclose to borrowers the identification of any lender that assisted in preparing or providing such materials; or

(iii) staffing services on a short-term, nonrecurring basis to assist the institution with financial aid-related functions during emergencies, including State-declared or federally declared natural disasters, federally declared national disasters, and other localized disasters and emergencies identified by the Secretary.

(7) Advisory board compensation

Any employee who is employed in the financial aid office of the institution, or who otherwise has responsibilities with respect to education loans or other student financial aid of

the institution, and who serves on an advisory board, commission, or group established by a lender, guarantor, or group of lenders or guarantors, shall be prohibited from receiving anything of value from the lender, guarantor, or group of lenders or guarantors, except that the employee may be reimbursed for reasonable expenses incurred in serving on such advisory board, commission, or group.

(f) Institutional requirements for teach-outs

(1) In general

In the event the Secretary initiates the limitation, suspension, or termination of the participation of an institution of higher education in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 under the authority of subsection (c)(1)(F) or initiates an emergency action under the authority of subsection (c)(1)(G) and its prescribed regulations, the Secretary shall require that institution to prepare a teach-out plan for submission to the institution's accrediting agency or association in compliance with section 1099b(c)(3) of this title, the Secretary's regulations on teach-out plans, and the standards of the institution's accrediting agency or association.

(2) Teach-out plan defined

In this subsection, the term "teach-out plan" means a written plan that provides for the equitable treatment of students if an institution of higher education ceases to operate before all students have completed their program of study, and may include, if required by the institution's accrediting agency or association, an agreement between institutions for such a teach-out plan.

(g) Inspector General report on gift ban violations

The Inspector General of the Department shall—

- (1) submit an annual report to the authorizing committees identifying all violations of an institution's code of conduct that the Inspector General has substantiated during the preceding year relating to the gift ban provisions described in subsection (e)(2); and
- (2) make the report available to the public through the Department's website.

(h) Preferred lender list requirements

(1) In general

In compiling, maintaining, and making available a preferred lender list as required under subsection (a)(27), the institution will—

- (A) clearly and fully disclose on such preferred lender list—
 - (i) not less than the information required to be disclosed under section 1019b(a)(2)(A) of this title;
 - (ii) why the institution has entered into a preferred lender arrangement with each lender on the preferred lender list, particularly with respect to terms and conditions or provisions favorable to the borrower; and
 - (iii) that the students attending the institution, or the families of such students, do not have to borrow from a lender on the preferred lender list;

(B) ensure, through the use of the list of lender affiliates provided by the Secretary under paragraph (2), that—

- (i) there are not less than three lenders of loans made under part B that are not affiliates of each other included on the preferred lender list and, if the institution recommends, promotes, or endorses private education loans, there are not less than two lenders of private education loans that are not affiliates of each other included on the preferred lender list; and
- (ii) the preferred lender list under this paragraph—

(I) specifically indicates, for each listed lender, whether the lender is or is not an affiliate of each other lender on the preferred lender list; and

(II) if a lender is an affiliate of another lender on the preferred lender list, describes the details of such affiliation;

(C) prominently disclose the method and criteria used by the institution in selecting lenders with which to enter into preferred lender arrangements to ensure that such lenders are selected on the basis of the best interests of the borrowers, including—

- (i) payment of origination or other fees on behalf of the borrower;
- (ii) highly competitive interest rates, or other terms and conditions or provisions of loans under this subchapter and part C of subchapter I of chapter 34 of title 42 or private education loans;
- (iii) high-quality servicing for such loans; or
- (iv) additional benefits beyond the standard terms and conditions or provisions for such loans;

(D) exercise a duty of care and a duty of loyalty to compile the preferred lender list under this paragraph without prejudice and for the sole benefit of the students attending the institution, or the families of such students;

(E) not deny or otherwise impede the borrower's choice of a lender or cause unnecessary delay in loan certification under this subchapter and part C of subchapter I of chapter 34 of title 42 for those borrowers who choose a lender that is not included on the preferred lender list; and

(F) comply with such other requirements as the Secretary may prescribe by regulation.

(2) Lender affiliates list

(A) In general

The Secretary shall maintain and regularly update a list of lender affiliates of all eligible lenders, and shall provide such list to institutions for use in carrying out paragraph (1)(B).

(B) Use of most recent list

An institution shall use the most recent list of lender affiliates provided by the Secretary under subparagraph (A) in carrying out paragraph (1)(B).

(i) Definitions

For the purpose of this section:

(1) Agent

The term “agent” has the meaning given the term in section 1019 of this title.

(2) Affiliate

The term “affiliate” means a person that controls, is controlled by, or is under common control with another person. A person controls, is controlled by, or is under common control with another person if—

(A) the person directly or indirectly, or acting through one or more others, owns, controls, or has the power to vote five percent or more of any class of voting securities of such other person;

(B) the person controls, in any manner, the election of a majority of the directors or trustees of such other person; or

(C) the Secretary determines (after notice and opportunity for a hearing) that the person directly or indirectly exercises a controlling interest over the management or policies of such other person’s education loans.

(3) Education loan

The term “education loan” has the meaning given the term in section 1019 of this title.

(4) Eligible institution

The term “eligible institution” means any such institution described in section 1002 of this title.

(5) Officer

The term “officer” has the meaning given the term in section 1019 of this title.

(6) Preferred lender arrangement

The term “preferred lender arrangement” has the meaning given the term in section 1019 of this title.

(j) Construction

Nothing in the amendments made by the Higher Education Amendments of 1992 shall be construed to prohibit an institution from recording, at the cost of the institution, a hearing referred to in subsection (b)(2), subsection (c)(1)(D), or subparagraph (A) or (B)(i) of subsection (c)(2), of this section to create a record of the hearing, except the unavailability of a recording shall not serve to delay the completion of the proceeding. The Secretary shall allow the institution to use any reasonable means, including stenographers, of recording the hearing.

(Pub. L. 89-329, title IV, §487, as added Pub. L. 99-498, title IV, §407(a), Oct. 17, 1986, 100 Stat. 1488; amended Pub. L. 101-239, title II, §§2003(c)(2), 2006(c), Dec. 19, 1989, 103 Stat. 2114, 2118; Pub. L. 101-542, title II, §205, Nov. 8, 1990, 104 Stat. 2387; Pub. L. 102-26, §2(c)(3), Apr. 9, 1991, 105 Stat. 124; Pub. L. 102-325, title IV, §490, July 23, 1992, 106 Stat. 625; Pub. L. 103-208, §2(h)(42), (43), Dec. 20, 1993, 107 Stat. 2478; Pub. L. 105-244, title I, §102(b)(4), title IV, §489(a), (b)(1), (c), Oct. 7, 1998, 112 Stat. 1622, 1750, 1751; Pub. L. 106-113, div. B, §1000(a)(4) [title III, §314], Nov. 29, 1999, 113 Stat. 1535, 1501A-266; Pub. L. 110-315, title IV, §493(a)(1)(A), (b)-(d), Aug. 14, 2008, 122 Stat. 3308, 3309-3317; Pub. L. 111-39, title IV, §407(b)(8), July 1, 2009, 123 Stat. 1952.)

REFERENCES IN TEXT

Title IV, referred to in subsec. (d), means title IV of the Higher Education Act of 1965, Pub. L. 89-329, which is classified generally to this subchapter and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of title IV to the Code, see Tables.

The Higher Education Amendments of 1992, referred to in subsec. (j), is Pub. L. 102-325, July 23, 1992, 106 Stat. 448. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1094, Pub. L. 89-329, title IV, §487, as added Pub. L. 96-374, title IV, §451(a), Oct. 3, 1980, 94 Stat. 1451; amended Pub. L. 99-272, title XVI, §16034, Apr. 7, 1986, 100 Stat. 356, related to program participation agreements, prior to the general revision of this part by Pub. L. 99-498.

AMENDMENTS

2009—Subsec. (a)(23)(A). Pub. L. 111-39, §407(b)(8)(A), made technical amendment to reference in original act which appears in text as reference to section 1973gg-2(b) of title 42.

Subsec. (c)(1)(A)(i), (F), (H). Pub. L. 111-39, §407(b)(8)(B), substituted “students receive” for “students receives” in subpar. (A)(i) and “paragraph (3)(B)” for “paragraph (2)(B)” in subpars. (F) and (H).

Subsec. (f)(1). Pub. L. 111-39, §407(b)(8)(C), substituted “1099b(c)(3)” for “1099b(c)(4)”.

Subsec. (g)(1). Pub. L. 111-39, §407(b)(8)(D), substituted “subsection (e)(2)” for “subsection (f)(2)”.

2008—Subsec. (a)(23)(C), (D). Pub. L. 110-315, §493(a)(1)(A)(i), realigned margins of subpar. (C) and added subpar. (D).

Subsec. (a)(24) to (29). Pub. L. 110-315, §493(a)(1)(A)(ii), added pars. (24) to (29).

Subsec. (c)(1)(A)(i). Pub. L. 110-315, §493(b), inserted before semicolon at end “, except that the Secretary may modify the requirements of this clause with respect to institutions of higher education that are foreign institutions, and may waive such requirements with respect to a foreign institution whose students receives less than \$500,000 in loans under this subchapter and part C of subchapter I of chapter 34 of title 42 during the award year preceding the audit period”.

Subsecs. (d) to (h). Pub. L. 110-315, §493(c)(2), added subsecs. (d) to (h). Former subsecs. (d) and (e) were redesignated (i) and (j), respectively.

Subsec. (i). Pub. L. 110-315, §493(c)(1), (d), redesignated subsec. (d) as (i), substituted “Definitions” for “Definition of eligible institution” in heading, added pars. (1) to (3), inserted par. (4) designation and heading before definition of “eligible institution”, and added pars. (5) and (6).

Subsec. (j). Pub. L. 110-315, §493(c)(1), redesignated subsec. (e) as (j).

1999—Subsec. (a)(23)(C). Pub. L. 106-113 amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “This paragraph shall apply to elections as defined in section 431(1) of title 2, and includes the election for Governor or other chief executive within such State.”

1998—Subsec. (a)(3)(B) to (D). Pub. L. 105-244, §489(a)(1), redesignated subpars. (C) and (D) as (B) and (C), respectively, and struck out former subpar. (B) which read as follows: “the appropriate State review entity designated under subpart 1 of part G of this subchapter”;

Subsec. (a)(4). Pub. L. 105-244, §489(a)(2), substituted “subsection (c)” for “subsection (b)”.

Subsec. (a)(9). Pub. L. 105-244, §489(a)(3), substituted “part B or C” for “part B”.

Subsec. (a)(14)(A), (B). Pub. L. 105-244, §489(a)(4)(A), (B), substituted “part B or C” for “part B”.

Subsec. (a)(14)(C). Pub. L. 105-244, §489(a)(4)(C), added subpar. (C).

Subsec. (a)(15). Pub. L. 105-244, § 489(a)(5), substituted “the State agencies” for “State review entities”.

Subsec. (a)(18). Pub. L. 105-244, § 489(a)(6), amended par. (18) generally. Prior to amendment, par. (18) required institutions to cause an annual compilation to be prepared of revenues and expenses relating to men’s and women’s sports.

Subsec. (a)(21). Pub. L. 105-244, § 489(a)(7), amended par. (21) generally. Prior to amendment, par. (21) read as follows: “The institution will meet the requirements established by the Secretary, State postsecondary review entities, and accrediting agencies pursuant to part G of this subchapter.”

Subsec. (a)(23). Pub. L. 105-244, § 489(b)(1), added par. (23).

Subsec. (c)(1)(A)(i). Pub. L. 105-244, § 489(c)(1)(A), substituted “clauses (ii) and (iii)” for “clause (ii)” and “appropriate State agency notifying the Secretary under” for “State review entities referred to in” and struck out “or” after semicolon.

Subsec. (c)(1)(A)(iii). Pub. L. 105-244, § 489(c)(1)(B), (C), added cl. (iii).

Subsec. (c)(4). Pub. L. 105-244, § 489(c)(2), struck out “, after consultation with each State review entity designated under subpart 1 of part G of this subchapter,” after “shall publish”.

Subsec. (c)(5). Pub. L. 105-244, § 489(c)(3), substituted “State agencies notifying the Secretary” for “State review entities designated”.

Subsec. (d). Pub. L. 105-244, § 102(b)(4), substituted “section 1002” for “section 1088”.

1993—Subsec. (a)(2). Pub. L. 103-208, § 2(h)(42), struck out “, or for completing or handling the Federal Student Assistance Report” after “amount of such assistance”.

Subsec. (c)(1)(F). Pub. L. 103-208, § 2(h)(43), substituted “participation in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 of an eligible institution,” for “eligibility for any program under this subchapter and part C of subchapter I of chapter 34 of title 42 of any otherwise eligible institution”.

1992—Subsec. (a). Pub. L. 102-325, § 490(f)(1), substituted “subpart 4” for “subpart 3”.

Subsec. (a)(2). Pub. L. 102-325, § 490(f)(2), struck out “provided for in section 1090(e) of this title” after “Report”.

Subsec. (a)(3). Pub. L. 102-325, § 490(a)(1), inserted before period at end “, together with assurances that the institution will provide, upon request and in a timely fashion, information relating to the administrative capability and financial responsibility of the institution to—” and added subpars. (A) to (D).

Subsec. (a)(8). Pub. L. 102-325, § 490(a)(2), substituted “application (A)” for “application,” inserted “, and” after “advertisements”, and added subpar. (B).

Subsec. (a)(13) to (22). Pub. L. 102-325, § 490(a)(3), added pars. (13) to (22).

Subsec. (b)(2). Pub. L. 102-325, § 490(b)(1), struck out “on the record” after “for a hearing”.

Subsec. (c)(1). Pub. L. 102-325, § 490(b)(2)(A), substituted “shall” for “is authorized to” in introductory provisions.

Subsec. (c)(1)(A)(i). Pub. L. 102-325, § 490(c), substituted “a financial audit of an eligible institution with regard to the financial condition of the institution in its entirety, and a compliance audit of such institution” for “a financial and compliance audit of an eligible institution,” and “on at least an annual basis” for “at least once every 2 years” and inserted “and shall be available to cognizant guaranty agencies, eligible lenders, State agencies, and the State review entities referred to in subpart 1 of part G of this subchapter” after “submitted to the Secretary”.

Subsec. (c)(1)(B). Pub. L. 102-325, § 490(d)(1), inserted before semicolon at end “, including any matter the Secretary deems necessary to the sound administration of the financial aid programs, such as the pertinent actions of any owner, shareholder, or person exercising control over an eligible institution”.

Subsec. (c)(1)(C). Pub. L. 102-325, § 490(d)(3), added subpar. (C). Former subpar. (C) redesignated (E).

Subsec. (c)(1)(D). Pub. L. 102-325, § 490(d)(3), added subpar. (D). Former subpar. (D) redesignated (F).

Pub. L. 102-325, § 490(b)(2)(B), struck out “on the record” after “opportunity for hearing”.

Subsec. (c)(1)(E). Pub. L. 102-325, § 490(d)(2), redesignated subpar. (C) as (E). Former subpar. (E) redesignated (G).

Subsec. (c)(1)(F). Pub. L. 102-325, § 490(d)(2), redesignated subpar. (D) as (F). Former subpar. (F) redesignated (H).

Pub. L. 102-325, § 490(b)(2)(C), struck out “on the record” after “opportunity for a hearing”.

Subsec. (c)(1)(G). Pub. L. 102-325, § 490(d)(2), redesignated subpar. (E) as (G). Former subpar. (G) redesignated (I).

Subsec. (c)(1)(H). Pub. L. 102-325, § 490(d)(2), (4), redesignated subpar. (F) as (H) and substituted “a third party servicer” for “an individual or an organization”.

Subsec. (c)(1)(I). Pub. L. 102-325, § 490(d)(2), (5), redesignated subpar. (G) as (I) and substituted “a third party servicer” for “an individual or an organization”.

Subsec. (c)(2). Pub. L. 102-325, § 490(d)(8), added par. (2). Former par. (2) redesignated (3).

Pub. L. 102-325, § 490(b)(2)(D), struck out “on the record” after “opportunity for a hearing” in subpars. (A) and (B)(i).

Subsec. (c)(3). Pub. L. 102-325, § 490(d)(7), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Pub. L. 102-325, § 490(d)(6), inserted “, after consultation with each State review entity designated under subpart 1 of part G of this subchapter,” after “shall publish”.

Subsec. (c)(4). Pub. L. 102-325, § 490(d)(7), redesignated par. (3) as (4).

Subsec. (c)(5) to (7). Pub. L. 102-325, § 490(d)(9), added pars. (5) to (7).

Subsec. (d). Pub. L. 102-325, § 490(f)(3), substituted “section 1088” for “section 1085(a)”.

Subsec. (e). Pub. L. 102-325, § 490(e), added subsec. (e).

1991—Subsec. (a)(11). Pub. L. 102-26 substituted “whose students receive financial assistance pursuant to section 1091(d) of this title,” for “which admits students on the basis of their ability to benefit from the education or training provided by such institution (as determined under section 1091(d) of this title)”.

1990—Subsec. (a)(12). Pub. L. 101-542 added par. (12).

1989—Subsec. (a)(11). Pub. L. 101-239, § 2003(c)(2), added par. (11).

Subsec. (c)(1)(D). Pub. L. 101-239, § 2006(c)(2), substituted “, any regulation” for “or any regulation” and inserted “or any applicable special arrangement, agreement, or limitation”.

Subsec. (c)(1)(E) to (G). Pub. L. 101-239, § 2006(c)(3), added subpars. (E) to (G).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-315, title IV, § 493(a)(1)(B), Aug. 14, 2008, 122 Stat. 3309, provided that: “The amendment made by subparagraph (A) [amending this section] with respect to section 487(a)(26) of the Higher Education Act of 1965 [20 U.S.C. 1094(a)(26)] (as added by subparagraph (A)) shall apply with respect to any disciplinary proceeding conducted by an institution on or after the day that is one year after the date of enactment of this Act [Aug. 14, 2008].”

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-26 applicable to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1991, see section 2(d)(1) of Pub. L. 102-26, set out as a note under section 1085 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 2003(c)(3) of Pub. L. 101-239 provided that: "The amendments made by this subsection [amending this section and section 1078-1 of this title] shall apply with respect to periods of enrollment beginning on or after January 1, 1990."

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99-498, set out as a note under section 1001 of this title.

Subsec. (a)(10) of this section applicable only to periods of enrollment beginning on or after July 1, 1987, see section 407(b) of Pub. L. 99-498, set out as a note under section 1091 of this title.

REGULATION PROHIBITED

Pub. L. 105-244, title IV, §489(b)(2), Oct. 7, 1998, 112 Stat. 1751, provided that: "No officer of the executive branch is authorized to instruct the institution in the manner in which the amendment made by this subsection [amending this section] is carried out."

§ 1094a. Regulatory relief and improvement**(a) Quality Assurance Program****(1) In general**

The Secretary is authorized to select institutions for voluntary participation in a Quality Assurance Program that provides participating institutions with an alternative management approach through which individual schools develop and implement their own comprehensive systems, related to processing and disbursement of student financial aid, verification of student financial aid application data, and entrance and exit interviews, thereby enhancing program integrity within the student aid delivery system.

(2) Criteria and consideration

The Quality Assurance Program authorized by this section shall be based on criteria that include demonstrated institutional performance, as determined by the Secretary, and shall take into consideration current quality assurance goals, as determined by the Secretary. The selection criteria shall ensure the participation of a diverse group of institutions of higher education with respect to size, mission, and geographical distribution.

(3) Waiver

The Secretary is authorized to waive for any institution participating in the Quality Assurance Program any regulations dealing with reporting or verification requirements in this subchapter and part C of subchapter I of chapter 34 of title 42 that are addressed by the institution's alternative management system,

and may substitute such quality assurance reporting as the Secretary determines necessary to ensure accountability and compliance with the purposes of the programs under this subchapter and part C of subchapter I of chapter 34 of title 42. The Secretary shall not modify or waive any statutory requirements pursuant to this paragraph.

(4) Determination

The Secretary is authorized to determine—

(A) when an institution that is unable to administer the Quality Assurance Program shall be removed from such program; and

(B) when institutions desiring to cease participation in such program will be required to complete the current award year under the requirements of the Quality Assurance Program.

(5) Review and evaluation

The Secretary shall review and evaluate the Quality Assurance Program conducted by each participating institution and, on the basis of that evaluation, make recommendations regarding amendments to this chapter and part C of subchapter I of chapter 34 of title 42 that will streamline the administration and enhance the integrity of Federal student assistance programs. Such recommendations shall be submitted to the authorizing committees.

(b) Regulatory improvement and streamlining experiments**(1) In general**

The Secretary shall continue the voluntary participation of any experimental sites in existence as of July 1, 2007, unless the Secretary determines that such site's participation has not been successful in carrying out the purposes of this section. Any experimental sites approved by the Secretary prior to such date that have not been successful in carrying out the purposes of this section shall be discontinued not later than June 30, 2010.

(2) Report

The Secretary shall review and evaluate the experience of institutions participating as experimental sites and shall, on a biennial basis, submit a report based on the review and evaluation to the authorizing committees. Such report shall include—

(A) a list of participating institutions and the specific statutory or regulatory waivers granted to each institution;

(B) the findings and conclusions reached regarding each of the experiments conducted; and

(C) recommendations for amendments to improve and streamline this chapter and part C of subchapter I of chapter 34 of title 42, based on the results of the experiment.

(3) Selection**(A) In general**

The Secretary is authorized to periodically select a limited number of additional institutions for voluntary participation as experimental sites to provide recommendations to the Secretary on the impact and effectiveness of proposed regulations or new management initiatives.

(B) Waivers

The Secretary is authorized to waive, for any institution participating as an experimental site under subparagraph (A), any requirements in this subchapter and part C of subchapter I of chapter 34 of title 42, including requirements related to the award process and disbursement of student financial aid (such as innovative delivery systems for modular or compressed courses, or other innovative systems), verification of student financial aid application data, entrance and exit interviews, or other management procedures or processes as determined in the negotiated rulemaking process under section 1098a of this title, or regulations prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, that will bias the results of the experiment, except that the Secretary shall not waive any provisions with respect to award rules (other than an award rule related to an experiment in modular or compressed schedules), grant and loan maximum award amounts, and need analysis requirements unless the waiver of such provisions is authorized by another provision under this subchapter and part C of subchapter I of chapter 34 of title 42.

(4) Determination of success

For the purposes of paragraph (1), the Secretary shall make a determination of success regarding an institution's participation as an experimental site based on—

(A) the ability of the experimental site to reduce administrative burdens to the institution, as documented in the Secretary's biennial report under paragraph (2), without creating costs for the taxpayer; and

(B) whether the experimental site has improved the delivery of services to, or otherwise benefitted, students.

(c) "Current award year" defined

For purposes of this section, the term "current award year" means the award year during which the participating institution indicates the institution's intention to cease participation.

(Pub. L. 89-329, title IV, § 487A, as added Pub. L. 102-325, title IV, § 491, July 23, 1992, 106 Stat. 629; amended Pub. L. 105-244, title IV, § 490, Oct. 7, 1998, 112 Stat. 1751; Pub. L. 110-315, title I, § 103(b)(13), title IV, § 494, Aug. 14, 2008, 122 Stat. 3090, 3318; Pub. L. 111-39, title IV, § 407(b)(9), July 1, 2009, 123 Stat. 1952.)

AMENDMENTS

2009—Subsec. (b)(1). Pub. L. 111-39, § 407(b)(9)(A), substituted "Any experimental sites" for "Any activities" and "June 30, 2010" for "June 30, 2009".

Subsec. (b)(4). Pub. L. 111-39, § 407(b)(9)(B), added par. (4).

2008—Subsec. (a)(5). Pub. L. 110-315, § 103(b)(13), substituted "authorizing committees" for "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives".

Subsec. (b)(1). Pub. L. 110-315, § 494(1), amended par. (1) generally. Prior to amendment, text read as follows: "The Secretary may continue any experimental sites in existence on October 7, 1998. Any activities approved by the Secretary prior to October 7, 1998, that are inconsistent with this section shall be discontinued not later than June 30, 1999."

Subsec. (b)(2). Pub. L. 110-315, § 494(2), added introductory provisions and struck out former introductory provisions which read as follows: "The Secretary shall review and evaluate the experience of institutions participating as experimental sites during the period of 1993 through 1998 under this section (as such section was in effect on the day before October 7, 1998), and shall submit a report based on this review and evaluation to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than 6 months after October 7, 1998. Such report shall include—".

Subsec. (b)(3)(A). Pub. L. 110-315, § 494(3)(A), substituted "The" for "Upon the submission of the report required by paragraph (2), the" and inserted "periodically" after "authorized to".

Subsec. (b)(3)(B). Pub. L. 110-315, § 494(3)(D), inserted ", including requirements related to the award process and disbursement of student financial aid (such as innovative delivery systems for modular or compressed courses, or other innovative systems), verification of student financial aid application data, entrance and exit interviews, or other management procedures or processes as determined in the negotiated rulemaking process under section 1098a of this title" before ", or regulations prescribed", "(other than an award rule related to an experiment in modular or compressed schedules)" after "award rules", and "unless the waiver of such provisions is authorized by another provision under this subchapter and part C of subchapter I of chapter 34 of title 42" before period at end.

Pub. L. 110-315, § 494(3)(B), (C), redesignated subpar. (C) as (B) and struck out former subpar. (B). Text of former subpar. (B) read as follows: "Prior to approving any additional experimental sites, the Secretary shall consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives and shall provide to such Committees—

"(i) a list of institutions proposed for participation in the experiment and the specific statutory or regulatory waivers proposed to be granted to each institution;

"(ii) a statement of the objectives to be achieved through the experiment; and

"(iii) an identification of the period of time over which the experiment is to be conducted."

Subsec. (b)(3)(C). Pub. L. 110-315, § 494(3)(C), redesignated subpar. (C) as (B).

1998—Pub. L. 105-244 amended section catchline and text generally. Prior to amendment, section authorized a Quality Assurance Program for institutions to develop and implement systems for verifying student financial aid application data.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

§ 1094b. Assignment of identification numbers

The Secretary shall assign to each participant in title IV programs, including institutions, lenders, and guaranty agencies, a single Department of Education identification number to be used to identify its participation in each of the title IV programs.

(Pub. L. 89-329, title IV, § 487B, as added Pub. L. 102-325, title IV, § 491, July 23, 1992, 106 Stat. 630.)

REFERENCES IN TEXT

Title IV, referred to in text, means title IV of Pub. L. 89-329, as added by Pub. L. 99-498, which is classified generally to this subchapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare.

§ 1095. Transfer of allotments

In order to offer an arrangement of types of aid, including institutional and State aid which best fits the needs of each individual student, an institution may (1) transfer a total of 25 percent of the institutions allotment under section 1087bb of this title to the institution's allotment under section 1070b-3 of this title or section 2752 of title 42 (or both); (2) transfer 25 percent of the institution's allotment under section 2752 of title 42 to the institution's allotment under section 1070b-3 or 1087bb of this title (or both); and (3) transfer 25 percent of the institution's allotment under section 1070b-3 of this title to the institution's allotment under section 2752 of title 42. Funds transferred to an institution's allotment under another section may be used as a part of and for the same purposes as funds allotted under that section. The Secretary shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

(Pub. L. 89-329, title IV, § 488, as added Pub. L. 99-498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1490; amended Pub. L. 100-50, § 15(14), June 3, 1987, 101 Stat. 357; Pub. L. 102-325, title IV, § 492, July 23, 1992, 106 Stat. 630; Pub. L. 110-315, title IV, § 494A, Aug. 14, 2008, 122 Stat. 3319.)

PRIOR PROVISIONS

A prior section 1095, Pub. L. 89-329, title IV, § 488, as added Pub. L. 96-374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1452, related to transfer of allotments, prior to the general revision of this part by Pub. L. 99-498.

AMENDMENTS

2008—Pub. L. 110-315 struck out “and” after semicolon in par. (1), substituted “section 1070b-3 or 1087bb of this title (or both); and” for “section 1070b-3 of this title.” in par. (2), and added par. (3).

1992—Pub. L. 102-325 inserted first two sentences and struck out former first sentence which read as follows: “Up to 10 percent of the allotment of an eligible institution for a fiscal year under section 1070b-3 of this title or 2752 of title 42, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including institutional and State aid, which best fits the needs of each individual student.”

1987—Pub. L. 100-50 substituted “section 2752 of title 42” for “section 2756 of title 42”.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 to this section, relating to transfers of allotments, applicable with respect to funds provided for award years beginning on or after July 1, 1993, see section 498 of Pub. L. 102-325, set out as a note under section 1088 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

§ 1095a. Wage garnishment requirement**(a) Garnishment requirements**

Notwithstanding any provision of State law, a guaranty agency, or the Secretary in the case of loans made, insured or guaranteed under this subchapter and part C of subchapter I of chapter 34 of title 42 that are held by the Secretary, may garnish the disposable pay of an individual to collect the amount owed by the individual, if he or she is not currently making required repayment under a repayment agreement with the Secretary, or, in the case of a loan guaranteed under part B of this subchapter on which the guaranty agency received reimbursement from the Secretary under section 1078(c) of this title, with the guaranty agency holding the loan, as appropriate, provided that—

(1) the amount deducted for any pay period may not exceed 15 percent of disposable pay, except that a greater percentage may be deducted with the written consent of the individual involved;

(2) the individual shall be provided written notice, sent by mail to the individual's last known address, a minimum of 30 days prior to the initiation of proceedings, from the guaranty agency or the Secretary, as appropriate, informing such individual of the nature and amount of the loan obligation to be collected, the intention of the guaranty agency or the Secretary, as appropriate, to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under this section;

(3) the individual shall be provided an opportunity to inspect and copy records relating to the debt;

(4) the individual shall be provided an opportunity to enter into a written agreement with the guaranty agency or the Secretary, under terms agreeable to the Secretary, or the head of the guaranty agency or his designee, as appropriate, to establish a schedule for the repayment of the debt;

(5) the individual shall be provided an opportunity for a hearing in accordance with subsection (b) of this section on the determination of the Secretary or the guaranty agency, as appropriate, concerning the existence or the amount of the debt, and, in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to paragraph (4), concerning the terms of the repayment schedule;

(6) the employer shall pay to the Secretary or the guaranty agency as directed in the withholding order issued in this action, and shall be liable for, and the Secretary or the guaranty agency, as appropriate, may sue the employer in a State or Federal court of competent jurisdiction to recover, any amount that such employer fails to withhold from wages due an employee following receipt of such employer of notice of the withholding order, plus attorneys' fees, costs, and, in the court's discretion, punitive damages, but such employer shall not be required to vary the normal pay and disbursement cycles in order to comply with this paragraph;

(7) if an individual has been reemployed within 12 months after having been involun-

tarily separated from employment, no amount may be deducted from the disposable pay of such individual until such individual has been reemployed continuously for at least 12 months; and

(8) an employer may not discharge from employment, refuse to employ, or take disciplinary action against an individual subject to wage withholding in accordance with this section by reason of the fact that the individual's wages have been subject to garnishment under this section, and such individual may sue in a State or Federal court of competent jurisdiction any employer who takes such action. The court shall award attorneys' fees to a prevailing employee and, in its discretion, may order reinstatement of the individual, award punitive damages and back pay to the employee, or order such other remedy as may be reasonably necessary.

(b) Hearing requirements

A hearing described in subsection (a)(5) of this section shall be provided prior to issuance of a garnishment order if the individual, on or before the 15th day following the mailing of the notice described in subsection (a)(2) of this section, and in accordance with such procedures as the Secretary or the head of the guaranty agency, as appropriate, may prescribe, files a petition requesting such a hearing. If the individual does not file a petition requesting a hearing prior to such date, the Secretary or the guaranty agency, as appropriate, shall provide the individual a hearing under subsection (a)(5) of this section upon request, but such hearing need not be provided prior to issuance of a garnishment order. A hearing under subsection (a)(5) of this section may not be conducted by an individual under the supervision or control of the head of the guaranty agency, except that nothing in this sentence shall be construed to prohibit the appointment of an administrative law judge. The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

(c) Notice requirements

The notice to the employer of the withholding order shall contain only such information as may be necessary for the employer to comply with the withholding order.

(d) No attachment of student assistance

Except as authorized in this section, notwithstanding any other provision of Federal or State law, no grant, loan, or work assistance awarded under this subchapter and part C of subchapter I of chapter 34 of title 42, or property traceable to such assistance, shall be subject to garnishment or attachment in order to satisfy any debt owed by the student awarded such assistance, other than a debt owed to the Secretary and arising under this subchapter and part C of subchapter I of chapter 34 of title 42.

(e) "Disposable pay" defined

For the purpose of this section, the term "disposable pay" means that part of the compensation of any individual from an employer remaining after the deduction of any amounts required by law to be withheld.

(Pub. L. 89-329, title IV, §488A, as added Pub. L. 102-164, title VI, §605(a), Nov. 15, 1991, 105 Stat. 1066; amended Pub. L. 105-244, title IV, §490A, Oct. 7, 1998, 112 Stat. 1753; Pub. L. 109-171, title VIII, §8024, Feb. 8, 2006, 120 Stat. 180.)

AMENDMENTS

2006—Subsec. (a)(1). Pub. L. 109-171 substituted "15 percent" for "10 percent".

1998—Subsecs. (d), (e). Pub. L. 105-244 added subsec. (d) and redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109-171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

§ 1096. Administrative expenses

(a) Amount of payments

From the sums appropriated for any fiscal year for the purpose of the program authorized under subpart 1 of part A of this subchapter, the Secretary shall reserve such sums as may be necessary to pay to each institution with which he has an agreement under section 1094 of this title, an amount equal to \$5 for each student at that institution who receives assistance under subpart 1 of part A of this subchapter. In addition, an institution which has entered into an agreement with the Secretary under subpart 3 of part A of this subchapter or part C of subchapter I of chapter 34 of title 42, or under part D of this subchapter shall be entitled for each fiscal year which such institution disburses funds to eligible students under any such part to a payment for the purpose set forth in subsection (b) of this section. The payment for a fiscal year shall be payable from each such allotment by payment in accordance with regulations of the Secretary and shall be equal to 5 percent of the institution's first \$2,750,000 of expenditures plus 4 percent of the institution's expenditures greater than \$2,750,000 and less than \$5,500,000, plus 3 percent of the institution's expenditures in excess of \$5,500,000 during the fiscal year from the sum of its grants to students under subpart 3 of part A of this subchapter, its expenditures during such fiscal year under part C of subchapter I of chapter 34 of title 42 for compensation of students, and the principal amount of loans made during such fiscal year from its student loan fund established under part D of this subchapter, excluding the principal amount of any such loans which the institution has referred under section 1087cc(a)(4)(B) of this title. In addition, the Secretary shall provide for payment to each institution of higher education an amount equal to 100 percent of the costs incurred by the institution in implementing and operating the immigration status verification system under section 1091(g) of this title.

(b) Purpose of payments

(1) The sums paid to institutions under this part are for the sole purpose of administering

the programs described in subsection (a) of this section.

(2) If the institution enrolls a significant number of students who are (A) attending the institution less than full time, or (B) independent students, the institution shall use a reasonable proportion of the funds available under this section for financial aid services during times and in places that will most effectively accommodate the needs of such students.

(Pub. L. 89-329, title IV, § 489, as added Pub. L. 99-498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1491; amended Pub. L. 99-603, title I, § 121(b)(7), Nov. 6, 1986, 100 Stat. 3391; Pub. L. 100-50, § 15(15), June 3, 1987, 101 Stat. 357; Pub. L. 102-325, title IV, §§ 446(c), 493, July 23, 1992, 106 Stat. 567, 630; Pub. L. 103-208, § 2(h)(44), (k)(6), Dec. 20, 1993, 107 Stat. 2478, 2486; Pub. L. 110-315, title IV, § 494B, Aug. 14, 2008, 122 Stat. 3319; Pub. L. 111-39, title IV, § 407(b)(10), July 1, 2009, 123 Stat. 1953.)

PRIOR PROVISIONS

A prior section 1096, Pub. L. 89-329, title IV, § 489, as added Pub. L. 96-374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1453; amended Pub. L. 97-35, title V, § 537(a)(2), Aug. 13, 1981, 95 Stat. 456, related to administrative expenses, prior to the general revision of this part by Pub. L. 99-498.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111-39 substituted “has referred under section 1087cc(a)(4)(B)” for “has agreed to assign under section 1087cc(a)(6)(B)” and “1091(g)” for “1091(h)”.

2008—Subsec. (b)(1). Pub. L. 110-315 substituted “administering” for “offsetting the administrative costs of”.

1993—Subsec. (a). Pub. L. 103-208, § 2(k)(6), repealed Pub. L. 102-325, § 446(c). See 1992 Amendment note below.

Pub. L. 103-208, § 2(h)(44), substituted “1091(h) of this title” for “1091(c) of this title”.

1992—Subsec. (a). Pub. L. 102-325, § 493(a)(3), substituted “subpart 3” for “subpart 2” in two places.

Pub. L. 102-325, § 493(a)(1), (2), struck out “(other than section 2756a of title 42)” before “, or under part D” in second sentence and struck out fourth sentence which read as follows: “The payment for a fiscal year for the purpose of subsection (b) of this section with respect to section 2756a of title 42 shall be payable from each allotment under part C of subchapter I of chapter 34 of title 42 in accordance with regulations of the Secretary, and shall be 10 percent of the institution’s expenditures during such fiscal year under such section.”

Pub. L. 102-325, § 446(c), which directed amendment identical to amendment by Pub. L. 102-325, § 493(a)(1), (2), above, was repealed by Pub. L. 103-208, § 2(k)(6).

Subsec. (b). Pub. L. 102-325, § 493(b), designated existing provisions as par. (1) and added par. (2).

1987—Subsec. (a). Pub. L. 100-50 made technical amendment to reference to section 2756a of title 42 to correct reference to corresponding section of original Act, requiring no change in text.

1986—Subsec. (a). Pub. L. 99-603 inserted provision directing the Secretary to pay the costs incurred by institutions of higher education in implementing and operating the immigration status verification system under section 1091(c) of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L.

102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 446(c) of Pub. L. 102-325 effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as a note under section 1001 of this title.

Amendment by section 493 of Pub. L. 102-325, relating to payments for administrative expenses, applicable with respect to funds provided for award years beginning on or after July 1, 1993, see section 498(7) of Pub. L. 102-325, set out as a note under section 1088 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-603 effective Oct. 1, 1987, see section 121(c)(2) of Pub. L. 99-603, set out as a note under section 502 of Title 42, The Public Health and Welfare.

§ 1096a. Repealed. Pub. L. 102-325, title IV, § 494, July 23, 1992, 106 Stat. 631

Section, Pub. L. 89-329, title IV, § 489A, as added Pub. L. 102-164, title VI, § 606, Nov. 15, 1991, 105 Stat. 1068, related to data matching.

§ 1097. Criminal penalties

(a) In general

Any person who knowingly and willfully embezzles, misapplies, steals, obtains by fraud, false statement, or forgery, or fails to refund any funds, assets, or property provided or insured under this subchapter and part C of subchapter I of chapter 34 of title 42 or attempts to so embezzle, misapply, steal, obtain by fraud, false statement or forgery, or fail to refund any funds, assets, or property, shall be fined not more than \$20,000 or imprisoned for not more than 5 years, or both, except if the amount so embezzled, misapplied, stolen, obtained by fraud, false statement, or forgery, or failed to be refunded does not exceed \$200, then the fine shall not be more than \$5,000 and imprisonment shall not exceed one year, or both.

(b) Assignment of loans

Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this subchapter and part C of subchapter I of chapter 34 of title 42 or attempts to so make any false statement, furnish any false information, or conceal any material information in connection with such assignment shall, upon conviction thereof, be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(c) Inducements to lend or assign

Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B of this subchapter or attempts to make such unlawful payment as an inducement to make, or to acquire by assignment, a loan insured under such part shall, upon conviction,

tion thereof, be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(d) Obstruction of justice

Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 or attempts to so destroy or conceal with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than \$20,000 or imprisoned not more than 5 years, or both.

(Pub. L. 89-329, title IV, § 490, as added Pub. L. 99-498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1491; amended Pub. L. 102-325, title IV, § 495, July 23, 1992, 106 Stat. 631.)

PRIOR PROVISIONS

A prior section 1097, Pub. L. 89-329, title IV, § 490, as added Pub. L. 96-374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1453, related to criminal penalties, prior to the general revision of this part by Pub. L. 99-498.

AMENDMENTS

1992—Pub. L. 102-325 amended section generally, inserting provisions relating to attempted offenses, wherever appearing, and in subsec. (a) inserting provisions relating to failure to refund and substituting provisions relating to \$20,000 and \$5,000 fines for provisions relating to \$10,000 and \$1,000 fines, respectively, in subsec. (b) substituting provisions relating to \$10,000 fines for provisions relating to \$1,000 fines, in subsec. (c) substituting provisions relating to \$10,000 fines for provisions relating to \$1,000 fines, and in subsec. (d) substituting provisions relating to \$20,000 fines for provisions relating to \$10,000 fines.

§ 1097a. Administrative subpoenas

(a) Authority

To assist the Secretary in the conduct of investigations of possible violations of the provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary is authorized to require by subpoena the production of information, documents, reports, answers, records, accounts, papers, and other documentary evidence pertaining to participation in any program under this subchapter and part C of subchapter I of chapter 34 of title 42. The production of any such records may be required from any place in a State.

(b) Enforcement

In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may request the Attorney General to invoke the aid of any court of the United States where such person resides or transacts business for a court order for the enforcement of this section.

(Pub. L. 89-329, title IV, § 490A, as added Pub. L. 105-244, title IV, § 490B, Oct. 7, 1998, 112 Stat. 1754.)

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1098. Advisory Committee on Student Financial Assistance

(a) Establishment and purpose

(1) There is established in the Department an independent Advisory Committee on Student Financial Assistance (hereafter in this section referred to as the “Advisory Committee”) which shall provide advice and counsel to the authorizing committees and to the Secretary on student financial aid matters.

(2) The purpose of the Advisory Committee is—

(A) to provide extensive knowledge and understanding of the Federal, State, and institutional programs of postsecondary student assistance;

(B) to provide technical expertise with regard to systems of needs analysis and application forms;

(C) to make recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students;

(D) to provide knowledge and understanding of early intervention programs, and to make recommendations that will result in early awareness by low- and moderate-income students and families—

(i) of their eligibility for assistance under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(ii) to the extent practicable, of their eligibility for other forms of State and institutional need-based student assistance;

(E) to make recommendations that will expand and improve partnerships among the Federal Government, States, institutions of higher education, and private entities to increase the awareness and the total amount of need-based student assistance available to low- and moderate-income students; and

(F) to collect information on Federal regulations, and on the impact of Federal regulations on student financial assistance and on the cost of receiving a postsecondary education, and to make recommendations to help streamline the regulations for institutions of higher education from all sectors.

(b) Independence of Advisory Committee

In the exercise of its functions, powers, and duties, the Advisory Committee shall be independent of the Secretary and the other offices and officers of the Department. Notwithstanding Department of Education policies and regulations, the Advisory Committee shall exert independent control of its budget allocations, expenditures and staffing levels, personnel decisions and processes, procurements, and other administrative and management functions. The Advisory Committee’s administration and management shall be subject to the usual and customary Federal audit procedures. Reports, publications, and other documents of the Advisory Committee, including such reports, publications, and documents in electronic form, shall not be subject to review by the Secretary. The recommendations of the Committee shall not be subject to review or approval by any officer in the executive branch, but may be submitted to

the Secretary for comment prior to submission to the authorizing committees in accordance with subsection (f) of this section. The Secretary's authority to terminate advisory committees of the Department pursuant to section 1233g(b)¹ of this title ceased to be effective on June 23, 1983.

(c) Membership

(1) The Advisory Committee shall consist of 11 members appointed as follows:

(A) Four members shall be appointed by the President pro tempore of the Senate, of whom two members shall be appointed from recommendations by the Majority Leader of the Senate, and two members shall be appointed from recommendations by the Minority Leader of the Senate.

(B) Four members shall be appointed by the Speaker of the House of Representatives, of whom two members shall be appointed from recommendations by the Majority Leader of the House of Representatives, and two members shall be appointed from recommendations by the Minority Leader of the House of Representatives.

(C) Three members shall be appointed by the Secretary, of whom at least one member shall be a student.

(2) Each member of the Advisory Committee, with the exception of a student member, shall be appointed on the basis of technical qualifications, professional experience, and demonstrated knowledge in the fields of higher education, student financial aid, financing post-secondary education, and the operations and financing of student loan guarantee agencies.

(3) The appointment of a member under subparagraph (A) or (B) of paragraph (1) shall be effective upon publication of such appointment in the Congressional Record.

(d) Functions of the Committee

The Advisory Committee shall—

(1) develop, review, and comment annually upon the system of needs analysis established under part E of this subchapter;

(2) monitor, appraise, and evaluate the effectiveness of student aid delivery and recommend improvements;

(3) recommend data collection needs and student information requirements which would improve access and choice for eligible students under this subchapter and part C of subchapter I of chapter 34 of title 42 and assist the Department of Education in improving the delivery of student aid;

(4) assess the impact of legislative and administrative policy proposals;

(5) review and comment upon, prior to promulgation, all regulations affecting programs under this subchapter and part C of subchapter I of chapter 34 of title 42, including proposed regulations;

(6) recommend to the authorizing committees and to the Secretary such studies, surveys, and analyses of student financial assistance programs, policies, and practices, including the special needs of low-income, disadvan-

tagged, and nontraditional students, and the means by which the needs may be met;

(7) review and comment upon standards by which financial need is measured in determining eligibility for Federal student assistance programs;

(8) appraise the adequacies and deficiencies of current student financial aid information resources and services and evaluate the effectiveness of current student aid information programs;

(9) provide an annual report to the authorizing committees that provides analyses and policy recommendations regarding—

(A) the adequacy of need-based grant aid for low- and moderate-income students; and

(B) the postsecondary enrollment and graduation rates of low- and moderate-income students;

(10) develop and maintain an information clearinghouse to help institutions of higher education understand the regulatory impact of the Federal Government on institutions of higher education from all sectors, in order to raise awareness of institutional legal obligations and provide information to improve compliance with, and to reduce the duplication and inefficiency of, Federal regulations; and

(11) make special efforts to advise Members of Congress and such Members' staff of the findings and recommendations made pursuant to this paragraph.

(e) Operations of the Committee

(1) Each member of the Advisory Committee shall be appointed for a term of 4 years, except that, of the members first appointed—

(A) 4 shall be appointed for a term of 1 year;

(B) 4 shall be appointed for a term of 2 years; and

(C) 3 shall be appointed for a term of 3 years, as designated at the time of appointment by the Secretary.

(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of such term. A member of the Advisory Committee serving on August 14, 2008, shall be permitted to serve the duration of the member's term, regardless of whether the member was previously appointed to more than one term.

(3) No officers or full-time employees of the Federal Government shall serve as members of the Advisory Committee.

(4) The Advisory Committee shall elect a Chairman and a Vice Chairman from among its members.

(5) Six members of the Advisory Committee shall constitute a quorum.

(6) The Advisory Committee shall meet at the call of the Chairman or a majority of its members.

(f) Submission to Department for comment

The Advisory Committee may submit its proposed recommendations to the Department of Education for comment for a period not to exceed 30 days in each instance.

(g) Compensation and expenses

Members of the Advisory Committee may each receive reimbursement for travel expenses inci-

¹ See References in Text note below.

dent to attending Advisory Committee meetings, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, for persons in the Government service employed intermittently.

(h) Personnel and resources

(1) The Advisory Committee may appoint such personnel as may be determined necessary by the Chairman without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule. The Advisory Committee may appoint not more than 1 full-time equivalent, nonpermanent, consultant without regard to the provisions of title 5. The Advisory Committee shall not be required by the Secretary to reduce personnel to meet agency personnel reduction goals.

(2) In carrying out its duties under this chapter and part C of subchapter I of chapter 34 of title 42, the Advisory Committee shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

(3)(A) The Advisory Committee is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Advisory Committee, upon request made by the Chairman.

(B) The Advisory Committee may enter into contracts for the acquisition of information, suggestions, estimates, and statistics for the purpose of this section.

(4) The Advisory Committee is authorized to obtain the services of experts and consultants without regard to section 3109 of title 5 and to set pay in accordance with such section.

(5) The head of each Federal agency shall, to the extent not prohibited by law, cooperate with the Advisory Committee in carrying out this section.

(6) The Advisory Committee is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

(i) Availability of funds

In each fiscal year not less than \$800,000, shall be available from the amount appropriated for each such fiscal year from salaries and expenses of the Department for the costs of carrying out the provisions of this section.

(j) Special analyses and activities

The Advisory Committee shall—

(1) monitor and evaluate the modernization of student financial aid systems and delivery

processes and simplifications, including recommendations for improvement;

(2) assess the adequacy of current methods for disseminating information about programs under this subchapter and part C of subchapter I of chapter 34 of title 42 and recommend improvements, as appropriate, regarding early needs assessment and information for first-year secondary school students;

(3) assess and make recommendations concerning the feasibility and degree of use of appropriate technology in the application for, and delivery and management of, financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, as well as policies that promote use of such technology to reduce cost and enhance service and program integrity, including electronic application and reapplication, just-in-time delivery of funds, reporting of disbursements and reconciliation;

(4) conduct a review and analysis of regulations in accordance with subsection (l); and

(5) conduct a study in accordance with subsection (m).

(k) Term of Committee

Notwithstanding the sunset and charter provisions of the Federal Advisory Committee Act or any other statute or regulation, the Advisory Committee shall be authorized until October 1, 2014.

(l) Review and analysis of regulations

(1) Recommendations

The Advisory Committee shall make recommendations to the Secretary and the authorizing committees for consideration of future legislative action regarding redundant or outdated regulations consistent with the Secretary's requirements under section 1099c-2 of this title.

(2) Review and analysis of regulations

(A) Review of current regulations

To meet the requirements of subsection (d)(10), the Advisory Committee shall conduct a review and analysis of the regulations issued by Federal agencies that are in effect at the time of the review and that apply to the operations or activities of institutions of higher education from all sectors. The review and analysis may include a determination of whether the regulation is duplicative, is no longer necessary, is inconsistent with other Federal requirements, or is overly burdensome. In conducting the review, the Advisory Committee shall pay specific attention to evaluating ways in which regulations under this subchapter and part C of subchapter I of chapter 34 of title 42 affecting institutions of higher education (other than institutions described in section 1002(a)(1)(C) of this title), that have received in each of the two most recent award years prior to August 14, 2008, less than \$200,000 in funds through this subchapter and part C of subchapter I of chapter 34 of title 42, may be improved, streamlined, or eliminated.

(B) Review and collection of future regulations

The Advisory Committee shall—

(i) monitor all Federal regulations, including notices of proposed rulemaking, for their impact or potential impact on higher education; and

(ii) provide a succinct description of each regulation or proposed regulation that is generally relevant to institutions of higher education from all sectors.

(C) Maintenance of public website

The Advisory Committee shall develop and maintain an easy to use, searchable, and regularly updated website that—

(i) provides information collected in subparagraph (B);

(ii) provides an area for the experts and members of the public to provide recommendations for ways in which the regulations may be streamlined; and

(iii) publishes the study conducted by the National Research Council of the National Academy of Sciences under section 1106 of the Higher Education Opportunity Act.

(3) Consultation

(A) In general

In carrying out the review, analysis, and development of the website required under paragraph (2), the Advisory Committee shall consult with the Secretary, other Federal agencies, relevant representatives of institutions of higher education, individuals who have expertise and experience with Federal regulations, and the review panels described in subparagraph (B).

(B) Review panels

The Advisory Committee shall convene not less than two review panels of representatives of the groups involved in higher education, including individuals involved in student financial assistance programs under this subchapter and part C of subchapter I of chapter 34 of title 42, who have experience and expertise in the regulations issued by the Federal Government that affect all sectors of higher education, in order to review the regulations and to provide recommendations to the Advisory Committee with respect to the review and analysis under paragraph (2). The panels shall be made up of experts in areas such as the operations of the financial assistance programs, the institutional eligibility requirements for the financial assistance programs, regulations not directly related to the operations or the institutional eligibility requirements of the financial assistance programs, and regulations for dissemination of information to students about the financial assistance programs.

(4) Periodic updates to the authorizing committees

The Advisory Committee shall—

(A) submit, not later than two years after the completion of the negotiated rulemaking process required under section 1098a of this title resulting from the amendments to this chapter and part C of subchapter I of chapter 34 of title 42 made by the Higher Education

Opportunity Act, a report to the authorizing committees and the Secretary detailing the review panels' findings and recommendations with respect to the review of regulations; and

(B) provide periodic updates to the authorizing committees regarding—

(i) the impact of all Federal regulations on all sectors of higher education; and

(ii) suggestions provided through the website for streamlining or eliminating duplicative regulations.

(5) Additional support

The Secretary and the Inspector General of the Department shall provide such assistance and resources to the Advisory Committee as the Secretary and Inspector General determine are necessary to conduct the review and analysis required by this subsection.

(m) Study of innovative pathways to baccalaureate degree attainment

(1) Study required

The Advisory Committee shall conduct a study of the feasibility of increasing baccalaureate degree attainment rates by reducing the costs and financial barriers to attaining a baccalaureate degree through innovative programs.

(2) Scope of study

The Advisory Committee shall examine new and existing programs that promote baccalaureate degree attainment through innovative ways, such as dual or concurrent enrollment programs, changes made to the Federal Pell Grant program, simplification of the needs analysis process, compressed or modular scheduling, articulation agreements, and programs that allow two-year institutions of higher education to offer baccalaureate degrees.

(3) Required aspects of the study

In performing the study described in this subsection, the Advisory Committee shall examine the following aspects of such innovative programs:

(A) The impact of such programs on baccalaureate attainment rates.

(B) The degree to which a student's total cost of attaining a baccalaureate degree can be reduced by such programs.

(C) The ways in which low- and moderate-income students can be specifically targeted by such programs.

(D) The ways in which nontraditional students can be specifically targeted by such programs.

(E) The cost-effectiveness for the Federal Government, States, and institutions of higher education to implement such programs.

(4) Consultation

(A) In general

In performing the study described in this subsection, the Advisory Committee shall consult with a broad range of interested parties in higher education, including parents, students, appropriate representatives of sec-

ondary schools and institutions of higher education, appropriate State administrators, administrators of dual or concurrent enrollment programs, and appropriate Department officials.

(B) Consultation with the authorizing committees

The Advisory Committee shall consult on a regular basis with the authorizing committees in carrying out the study required by this subsection.

(5) Reports to authorizing committees

(A) Interim report

The Advisory Committee shall prepare and submit to the authorizing committees and the Secretary an interim report, not later than one year after August 14, 2008, describing the progress made in conducting the study required by this subsection and any preliminary findings on the topics identified under paragraph (2).

(B) Final report

The Advisory Committee shall, not later than three years after August 14, 2008, prepare and submit to the authorizing committees and the Secretary a final report on the study, including recommendations for legislative, regulatory, and administrative changes based on findings related to the topics identified under paragraph (2).

(Pub. L. 89–329, title IV, § 491, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1492; amended Pub. L. 100–50, § 15(16)–(18), June 3, 1987, 101 Stat. 357; Pub. L. 102–325, title IV, § 496, July 23, 1992, 106 Stat. 631; Pub. L. 103–208, § 2(h)(45), (46), Dec. 20, 1993, 107 Stat. 2478; Pub. L. 105–244, title IV, § 490C, Oct. 7, 1998, 112 Stat. 1754; Pub. L. 110–315, title IV, § 494C, Aug. 14, 2008, 122 Stat. 3319; Pub. L. 111–39, title IV, § 407(b)(11), July 1, 2009, 123 Stat. 1953.)

REFERENCES IN TEXT

Section 1233g of this title, referred to in subsec. (b), was repealed by Pub. L. 103–382, title II, § 212(a)(2), Oct. 20, 1994, 108 Stat. 3913.

The Federal Advisory Committee Act, referred to in subsec. (k), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Higher Education Opportunity Act, referred to in subsec. (l)(4)(A), is Pub. L. 110–315, Aug. 14, 2008, 122 Stat. 3078. Section 1106 of the Act is not classified to the Code. For complete classification of such Act to the Code, see Short Title of 2008 Amendment note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1098, Pub. L. 89–329, title IV, § 491, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1454; amended Pub. L. 98–79, § 11, Aug. 15, 1983, 97 Stat. 484, related to a National Commission on Student Financial Assistance, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 491 of Pub. L. 89–329 amended former section 403 of this title.

AMENDMENTS

2009—Subsec. (l)(2)(A). Pub. L. 111–39 made technical amendment to reference in original act which appears in text as reference to August 14, 2008.

2008—Subsec. (a)(1). Pub. L. 110–315, § 494C(b), substituted “authorizing committees” for “Congress”.

Subsec. (a)(2)(D) to (F). Pub. L. 110–315, § 494C(a)(1), added subpars. (D) to (F).

Subsec. (b). Pub. L. 110–315, § 494C(b), substituted “authorizing committees” for “Congress”.

Subsec. (c). Pub. L. 110–315, § 494C(a)(2), added subsec. (c) and struck out former subsec. (c) relating to appointment and qualifications of Advisory Committee members.

Subsec. (d)(6). Pub. L. 110–315, § 494C(a)(3)(A), (b), substituted “authorizing committees” for “Congress” and struck out “, but nothing in this section shall authorize the committee to perform such studies, surveys, or analyses” before semicolon.

Subsec. (d)(9) to (11). Pub. L. 110–315, § 494C(a)(3)(B)–(D), added pars. (9) and (10) and redesignated former par. (9) as (11).

Subsec. (e)(1). Pub. L. 110–315, § 494C(a)(4)(A), substituted “4 years” for “3 years” in introductory provision.

Subsec. (e)(2). Pub. L. 110–315, § 494C(a)(4)(B), substituted “A member of the Advisory Committee serving on August 14, 2008, shall be permitted to serve the duration of the member’s term, regardless of whether the member was previously appointed to more than one term.” for “A member of the Advisory Committee shall, upon request, continue to serve after the expiration of a term until a successor has been appointed. A member of the Advisory Committee may be reappointed to successive terms on the Advisory Committee.”

Subsec. (j)(1). Pub. L. 110–315, § 494C(a)(5)(A), inserted “and simplifications” after “delivery processes” and struck out “including the implementation of a performance-based organization within the Department, and report to Congress regarding such modernization on not less than an annual basis,” before “including recommendations for improvement”.

Subsec. (j)(4), (5). Pub. L. 110–315, § 494C(a)(5)(B), added pars. (4) and (5) and struck out former pars. (4) and (5) which read as follows:

“(4) assess the implications of distance education on student eligibility and other requirements for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, and make recommendations that will enhance access to postsecondary education through distance education while maintaining access, through on-campus instruction at eligible institutions, and program integrity; and

“(5) make recommendations to the Secretary regarding redundant or outdated provisions of and regulations under this chapter, consistent with the Secretary’s requirements under section 1099c–2 of this title.”

Subsec. (k). Pub. L. 110–315, § 494C(a)(6), substituted “2014” for “2004”.

Subsecs. (l), (m). Pub. L. 110–315, § 494C(a)(7), added subsecs. (l) and (m).

1998—Subsec. (b). Pub. L. 105–244, § 490C(1), substituted “, expenditures and staffing levels” for “and expenditures” in second sentence and inserted “Reports, publications, and other documents of the Advisory Committee, including such reports, publications, and documents in electronic form, shall not be subject to review by the Secretary.” after third sentence.

Subsec. (e)(3) to (6). Pub. L. 105–244, § 490C(2), added par. (3) and redesignated former pars. (3) to (5) as (4) to (6), respectively.

Subsec. (g). Pub. L. 105–244, § 490C(3), substituted “Members of the Advisory Committee may each” for

“(1) Members of the Advisory Committee who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, for persons in the Government service employed intermittently.

“(2) Members of the Advisory Committee who are not officers or full-time employees of the United States may each”.

Subsec. (h)(1). Pub. L. 105–244, § 490C(4), inserted “determined” after “as may be” and inserted at end “The

Advisory Committee may appoint not more than 1 full-time equivalent, nonpermanent, consultant without regard to the provisions of title 5. The Advisory Committee shall not be required by the Secretary to reduce personnel to meet agency personnel reduction goals.”

Subsec. (i). Pub. L. 105-244, § 490C(5), substituted “\$800,000” for “\$750,000”.

Subsec. (j). Pub. L. 105-244, § 490C(6), amended heading and text of subsec. (j) generally. Prior to amendment, text read as follows: “The committee shall—

“(1) monitor and evaluate the program modifications resulting from the enactment of the Higher Education Amendments of 1992, especially as such amendments relate to the need analysis;

“(2) monitor and evaluate the implementation, pursuant to section 1090 of this title, of a Free Application for Federal Student Aid and the process for determining eligibility and awards for programs under this subchapter and part C of subchapter I of chapter 34 of title 42, including a simplified reapplication process;

“(3) assess the adequacy of current methods for disseminating information about programs under this subchapter and part C of subchapter I of chapter 34 of title 42 and recommend improvements, as appropriate, regarding early needs assessment and information for first-year high school students; and

“(4) assess the adequacy of methods of monitoring student debt burden.”

Subsec. (k). Pub. L. 105-244, § 490C(7), substituted “2004” for “1998”.

Subsec. (l). Pub. L. 105-244, § 490C(8), struck out heading and text of subsec. (l) which directed Advisory Committee to conduct a study of means of simplifying all aspects of loan programs under part B of this subchapter.

1993—Subsec. (d)(1). Pub. L. 103-208, § 2(h)(45), struck out “sections 1070a-1 through 1070a-5 of this title and” after “established under”.

Subsec. (h)(1). Pub. L. 103-208, § 2(h)(46), substituted “subchapter III” for “subtitle III” before “of chapter 53 of such title”.

1992—Subsec. (b). Pub. L. 102-325, § 496(a), inserted after first sentence “Notwithstanding Department of Education policies and regulations, the Advisory Committee shall exert independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions. The Advisory Committee’s administration and management shall be subject to the usual and customary Federal audit procedures.”

Subsec. (d)(3). Pub. L. 102-325, § 496(b)(1), struck out “and in assessing the impact of legislative and administrative policy proposals” after “student aid”.

Subsec. (d)(4) to (9). Pub. L. 102-325, § 496(b)(2)–(6), added par. (4), redesignated former pars. (4) to (7) as (5) to (8), respectively, and added par. (9).

Subsec. (h)(4). Pub. L. 102-325, § 496(c), substituted “without regard to” for “in accordance with” and inserted before period at end “and to set pay in accordance with such section”.

Subsec. (i). Pub. L. 102-325, § 496(d), substituted “\$750,000” for “\$500,000”.

Subsecs. (j) to (l). Pub. L. 102-325, § 496(e), added subsecs. (j) to (l) and struck out former subsec. (j), which related to special institutional lender study.

1987—Subsec. (b). Pub. L. 100-50, § 15(16), inserted at end “The Secretary’s authority to terminate advisory committees of the Department pursuant to section 1233g(b) of this title ceased to be effective on June 23, 1983.”

Subsec. (i). Pub. L. 100-50, § 15(17), substituted “In each fiscal year not less than \$500,000” for “An amount, not to exceed \$500,000 in any fiscal year”.

Subsec. (j). Pub. L. 100-50, § 15(18), added subsec. (j).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

§ 1098a. Regional meetings and negotiated rule-making

(a) Meetings

(1) In general

The Secretary shall obtain public involvement in the development of proposed regulations for this subchapter and part C of subchapter I of chapter 34 of title 42. The Secretary shall obtain the advice of and recommendations from individuals and representatives of the groups involved in student financial assistance programs under this subchapter and part C of subchapter I of chapter 34 of title 42, such as students, legal assistance organizations that represent students, institutions of higher education, State student grant agencies, guaranty agencies, lenders, secondary markets, loan servicers, guaranty agency servicers, and collection agencies.

(2) Issues

The Secretary shall provide for a comprehensive discussion and exchange of information concerning the implementation of this subchapter and part C of subchapter I of chapter 34 of title 42 through such mechanisms as regional meetings and electronic exchanges of information. The Secretary shall take into account the information received through such mechanisms in the development of proposed regulations and shall publish a summary of such information in the Federal Register together with such proposed regulations.

(b) Draft regulations

(1) In general

After obtaining the advice and recommendations described in subsection (a)(1) of this section and before publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations implementing this subchapter and part C of subchapter I of chapter 34 of title 42 and shall submit such

regulations to a negotiated rulemaking process. Participants in the negotiations process shall be chosen by the Secretary from individuals nominated by groups described in subsection (a)(1) of this section, and shall include both representatives of such groups from Washington, D.C., and industry participants. The Secretary shall select individuals with demonstrated expertise or experience in the relevant subjects under negotiation, reflecting the diversity in the industry, representing both large and small participants, as well as individuals serving local areas and national markets. The negotiation process shall be conducted in a timely manner in order that the final regulations may be issued by the Secretary within the 360-day period described in section 1232(e) of this title.

(2) Expansion of negotiated rulemaking

All regulations pertaining to this subchapter and part C of subchapter I of chapter 34 of title 42 that are promulgated after October 7, 1998, shall be subject to a negotiated rulemaking (including the selection of the issues to be negotiated), unless the Secretary determines that applying such a requirement with respect to given regulations is impracticable, unnecessary, or contrary to the public interest (within the meaning of section 553(b)(3)(B) of title 5), and publishes the basis for such determination in the Federal Register at the same time as the proposed regulations in question are first published. All published proposed regulations shall conform to agreements resulting from such negotiated rulemaking unless the Secretary reopens the negotiated rulemaking process or provides a written explanation to the participants in that process why the Secretary has decided to depart from such agreements. Such negotiated rulemaking shall be conducted in accordance with the provisions of paragraph (1), and the Secretary shall ensure that a clear and reliable record of agreements reached during the negotiations process is maintained.

(c) Applicability of Federal Advisory Committee Act

The Federal Advisory Committee Act shall not apply to activities carried out under this section.

(d) Authorization of appropriations

There are authorized to be appropriated in any fiscal year or made available from funds appropriated to carry out this part in any fiscal year such sums as may be necessary to carry out the provisions of this section, except that if no funds are appropriated pursuant to this subsection, the Secretary shall make funds available to carry out this section from amounts appropriated for the operations and expenses of the Department of Education.

(Pub. L. 89–329, title IV, § 492, as added Pub. L. 102–325, title IV, § 497, July 23, 1992, 106 Stat. 633; amended Pub. L. 105–244, title IV, § 490D, Oct. 7, 1998, 112 Stat. 1755; Pub. L. 110–315, title IV, § 494D, Aug. 14, 2008, 122 Stat. 3324; Pub. L. 111–39, title IV, § 407(b)(12), July 1, 2009, 123 Stat. 1953.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (c), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–39, § 407(b)(12)(A), substituted “regulations for this subchapter and part C of subchapter I of chapter 34 of title 42. The” for “regulations for parts B, F, and G of this subchapter. The”.

Subsec. (a)(2). Pub. L. 111–39, § 407(b)(12)(B), substituted “The Secretary shall provide” for text from beginning of par. (2) through “provide”, resulting in text identical to that after execution of the amendment by Pub. L. 105–244, § 490D(a)(2)(A). See 1998 Amendment note below.

2008—Subsec. (a)(1). Pub. L. 110–315, § 494D(a)(1), inserted “State student grant agencies,” after “institutions of higher education,”.

Subsec. (a)(2). Pub. L. 110–315, § 494D(a)(2), struck out “, as amended by the Higher Education Amendments of 1998” before “through such mechanisms”.

Subsec. (b)(1). Pub. L. 110–315, § 494D(b), struck out “as amended by the Higher Education Amendments of 1998” before “and shall submit”, substituted “The Secretary” for “To the extent possible, the Secretary”, and inserted “with demonstrated expertise or experience in the relevant subjects under negotiation,” after “select individuals”.

1998—Subsec. (a)(1). Pub. L. 105–244, § 490D(a)(1)(C), substituted “The Secretary shall obtain the advice of and recommendations from” for “Such meetings shall include”.

Pub. L. 105–244, § 490D(a)(1)(B), which directed the substitution of “this subchapter and part C of subchapter I of chapter 34 of title 42;” for “parts B, F, and G of this subchapter,” could not be executed because “parts B, F, and G of this subchapter,” does not appear in text.

Pub. L. 105–244, § 490D(a)(1)(A), struck out “convene regional meetings to” before “obtain public involvement”.

Subsec. (a)(2). Pub. L. 105–244, § 490D(a)(2)(B)–(D), substituted “this subchapter and part C of subchapter I of chapter 34 of title 42” for “parts B, F, and G of this subchapter”, “1998 through such mechanisms as regional meetings and electronic exchanges of information” for “1992”, and “through such mechanisms in” for “at such meetings in”.

Pub. L. 105–244, § 490D(a)(2)(A), which directed substitution of “The” for “During such meetings the”, was executed by making the substitution for “During such meetings, the” before “Secretary shall provide”, to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 105–244, § 490D(b), designated existing provisions as par. (1), inserted par. (1) heading, substituted “obtaining the advice and recommendations described in subsection (a)(1) of this section” for “holding regional meetings”, “this subchapter and part C of subchapter I of chapter 34 of title 42” for “parts B, F, and G of this subchapter”, “1998” for “1992”, “360-day” for “240-day”, and “section 1232(e)” for “section 1232(g)”, struck out “The Secretary shall follow the guidance provided in sections 305.82–4 and 305.85–5 of chapter 1, Code of Federal Regulations, and any successor recommendation, regulation, or law.” after “rule-making process.” and “participating in the regional meetings” after “nominated by groups”, and added par. (2).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see sec-

tion 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

INAPPLICABILITY OF MASTER CALENDAR AND
NEGOTIATED RULEMAKING REQUIREMENTS

This section inapplicable to amendments made by section 309 of Pub. L. 112-74, or to any regulations promulgated under such amendments, see section 309(h) of Pub. L. 112-74, set out as a note under section 1089 of this title.

This section inapplicable to amendments made by title V of Pub. L. 112-25 or to any regulations promulgated under such amendments, see section 504 of Pub. L. 112-25, set out as a note under section 1089 of this title.

This section inapplicable to amendments made by section 1860(a)(2) of Pub. L. 112-10 or to any regulations promulgated under such amendments, see section 1860(c) of Pub. L. 112-10, set out as a note under section 1089 of this title.

This section inapplicable to amendments made by title IV of Pub. L. 111-39 or to any regulations promulgated under such amendments, see section 409 of Pub. L. 111-39, set out as a note under section 1089 of this title.

This section inapplicable to amendments made by section 402(a) of Pub. L. 110-315 or to any regulations promulgated under such amendments, see section 402(b) of Pub. L. 110-315, set out as a note under section 1089 of this title.

This section inapplicable to amendments made by Pub. L. 110-227 or to any regulations promulgated under such amendments, see section 11 of Pub. L. 110-227, set out as a note under section 1089 of this title.

§ 1098b. Authorization of appropriations for administrative expenses

There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year thereafter for administrative expenses necessary for carrying out this subchapter and part C of subchapter I of chapter 34 of title 42, including expenses for staff personnel, program reviews, and compliance activities.

(Pub. L. 89-329, title IV, § 493, as added Pub. L. 102-325, title IV, § 497, July 23, 1992, 106 Stat. 634.)

§ 1098c. Repealed. Pub. L. 110-315, title IV, § 494E, Aug. 14, 2008, 122 Stat. 3324

Section, Pub. L. 89-329, title IV, § 493A, as added Pub. L. 105-244, title IV, § 490E, Oct. 7, 1998, 112 Stat. 1756, related to Year 2000 requirements at the Department of Education.

§ 1098d. Procedures for cancellations and deferments for eligible disabled veterans

The Secretary, in consultation with the Secretary of Veterans Affairs, shall develop and implement a procedure to permit Department of Veterans Affairs physicians to provide the certifications and affidavits needed to enable disabled veterans enrolled in the Department of Veterans Affairs health care system to document such veterans' eligibility for deferments or cancellations of student loans made, insured, or guaranteed under this subchapter and part C of subchapter I of chapter 34 of title 42. Not later than 6 months after October 7, 1998, the Secretary and the Secretary of Veterans Affairs jointly shall report to Congress on the progress made in developing and implementing the procedure.

(Pub. L. 89-329, title IV, § 493B, as added Pub. L. 105-244, title IV, § 490F, Oct. 7, 1998, 112 Stat. 1758.)

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1098e. Income-based repayment

(a) Definitions

In this section:

(1) Excepted PLUS loan

The term “excepted PLUS loan” means a loan under section 1078-2 of this title, or a Federal Direct PLUS Loan, that is made, insured, or guaranteed on behalf of a dependent student.

(2) Excepted consolidation loan

The term “excepted consolidation loan” means a consolidation loan under section 1078-3 of this title, or a Federal Direct Consolidation Loan, if the proceeds of such loan were used to the discharge the liability on an excepted PLUS loan.

(3) Partial financial hardship

The term “partial financial hardship”, when used with respect to a borrower, means that for such borrower—

(A) the annual amount due on the total amount of loans made, insured, or guaranteed under part B or C (other than an excepted PLUS loan or excepted consolidation loan) to a borrower as calculated under the standard repayment plan under section 1078(b)(9)(A)(i) or 1087e(d)(1)(A) of this title, based on a 10-year repayment period; exceeds

(B) 15 percent of the result obtained by calculating, on at least an annual basis, the amount by which—

(i) the borrower's, and the borrower's spouse's (if applicable), adjusted gross income; exceeds

(ii) 150 percent of the poverty line applicable to the borrower's family size as determined under section 9902(2) of title 42.

(b) Income-based repayment program authorized

Notwithstanding any other provision of this chapter and part C of subchapter I of chapter 34 of title 42, the Secretary shall carry out a program under which—

(1) a borrower of any loan made, insured, or guaranteed under part B or C (other than an excepted PLUS loan or excepted consolidation loan) who has a partial financial hardship (whether or not the borrower's loan has been submitted to a guaranty agency for default aversion or had been in default) may elect, during any period the borrower has the partial financial hardship, to have the borrower's aggregate monthly payment for all such loans not exceed the result described in subsection (a)(3)(B) divided by 12;

(2) the holder of such a loan shall apply the borrower's monthly payment under this subsection first toward interest due on the loan, next toward any fees due on the loan, and then toward the principal of the loan;

(3) any interest due and not paid under paragraph (2)—

(A) shall, on subsidized loans, be paid by the Secretary for a period of not more than 3 years after the date of the borrower's election under paragraph (1), except that such period shall not include any period during which the borrower is in deferment due to an economic hardship described in section 1085(o) of this title; and

(B) be capitalized—

(i) in the case of a subsidized loan, subject to subparagraph (A), at the time the borrower—

(I) ends the election to make income-based repayment under this subsection; or

(II) begins making payments of not less than the amount specified in paragraph (6)(A); or

(ii) in the case of an unsubsidized loan, at the time the borrower—

(I) ends the election to make income-based repayment under this subsection; or

(II) begins making payments of not less than the amount specified in paragraph (6)(A);

(4) any principal due and not paid under paragraph (2) shall be deferred;

(5) the amount of time the borrower makes monthly payments under paragraph (1) may exceed 10 years;

(6) if the borrower no longer has a partial financial hardship or no longer wishes to continue the election under this subsection, then—

(A) the maximum monthly payment required to be paid for all loans made to the borrower under part B or C (other than an excepted PLUS loan or excepted consolidation loan) shall not exceed the monthly amount calculated under section 1078(b)(9)(A)(i) or 1087e(d)(1)(A) of this title, based on a 10-year repayment period, when the borrower first made the election described in this subsection; and

(B) the amount of time the borrower is permitted to repay such loans may exceed 10 years;

(7) the Secretary shall repay or cancel any outstanding balance of principal and interest due on all loans made under part B or C (other than a loan under section 1078-2 of this title or a Federal Direct PLUS Loan) to a borrower who—

(A) at any time, elected to participate in income-based repayment under paragraph (1); and

(B) for a period of time prescribed by the Secretary, not to exceed 25 years, meets 1 or more of the following requirements—

(i) has made reduced monthly payments under paragraph (1) or paragraph (6);

(ii) has made monthly payments of not less than the monthly amount calculated under section 1078(b)(9)(A)(i) or 1087e(d)(1)(A) of this title, based on a 10-year repayment period, when the borrower first made the election described in this subsection;

(iii) has made payments of not less than the payments required under a standard repayment plan under section 1078(b)(9)(A)(i) or 1087e(d)(1)(A) of this title with a repayment period of 10 years;

(iv) has made payments under an income-contingent repayment plan under section 1087e(d)(1)(D) of this title; or

(v) has been in deferment due to an economic hardship described in section 1085(o) of this title;

(8) a borrower who is repaying a loan made under part B or C pursuant to income-based repayment may elect, at any time, to terminate repayment pursuant to income-based repayment and repay such loan under the standard repayment plan; and

(9) the special allowance payment to a lender calculated under section 1087-1(b)(2)(I) of this title, when calculated for a loan in repayment under this section, shall be calculated on the principal balance of the loan and on any accrued interest unpaid by the borrower in accordance with this section.

(c) Eligibility determinations

The Secretary shall establish procedures for annually determining the borrower's eligibility for income-based repayment, including verification of a borrower's annual income and the annual amount due on the total amount of loans made, insured, or guaranteed under part B or C (other than an excepted PLUS loan or excepted consolidation loan), and such other procedures as are necessary to effectively implement income-based repayment under this section. The Secretary shall consider, but is not limited to, the procedures established in accordance with section 1087e(e)(1) of this title or in connection with income sensitive repayment schedules under section 1078(b)(9)(A)(iii) or 1078-3(b)(1)(E) of this title.

(d) Special rule for married borrowers filing separately

In the case of a married borrower who files a separate Federal income tax return, the Secretary shall calculate the amount of the borrower's income-based repayment under this section solely on the basis of the borrower's student loan debt and adjusted gross income.

(e) Special terms for new borrowers on and after July 1, 2014

With respect to any loan made to a new borrower on or after July 1, 2014—

(1) subsection (a)(3)(B) shall be applied by substituting “10 percent” for “15 percent”; and

(2) subsection (b)(7)(B) shall be applied by substituting “20 years” for “25 years”.

(Pub. L. 89-329, title IV, §493C, as added Pub. L. 110-84, title II, §203(a), Sept. 27, 2007, 121 Stat. 792; amended Pub. L. 110-153, §2, Dec. 21, 2007, 121 Stat. 1824; Pub. L. 110-315, title IV, §494F, Aug. 14, 2008, 122 Stat. 3324; Pub. L. 111-152, title II, §2213, Mar. 30, 2010, 124 Stat. 1081.)

AMENDMENTS

2010—Subsec. (e). Pub. L. 111-152 added subsec. (e).

2008—Subsec. (b)(1). Pub. L. 110-315 substituted “or had been in default” for “or is already in default”.

2007—Subsec. (d). Pub. L. 110–153 added subsec. (d).

EFFECTIVE DATE

Section effective July 1, 2009, see section 203(c)(1) of Pub. L. 110–84, set out as an Effective Date of 2007 Amendment note under section 1078–3 of this title.

§ 1098f. Deferral of loan repayment following active duty

(a) Deferral of loan repayment following active duty

In addition to any deferral of repayment of a loan made under this subchapter and part C of subchapter I of chapter 34 of title 42 pursuant to section 1078(b)(1)(M)(iii), 1087e(f)(2)(C), or 1087dd(c)(2)(A)(iii) of this title, a borrower of a loan under this subchapter and part C of subchapter I of chapter 34 of title 42 who is a member of the National Guard or other reserve component of the Armed Forces of the United States, or a member of such Armed Forces in a retired status, is called or ordered to active duty, and is enrolled, or was enrolled within six months prior to the activation, in a program of instruction at an eligible institution, shall be eligible for a deferment during the 13 months following the conclusion of such service, except that a deferment under this subsection shall expire upon the borrower's return to enrolled student status.

(b) Active duty

Notwithstanding section 1088(d) of this title, in this section, the term “active duty” has the meaning given such term in section 101(d)(1) of title 10, except that such term—

- (1) does not include active duty for training or attendance at a service school; but
- (2) includes, in the case of members of the National Guard, active State duty.

(Pub. L. 89–329, title IV, § 493D, as added Pub. L. 110–84, title II, § 204, Sept. 27, 2007, 121 Stat. 795.)

EFFECTIVE DATE

Section effective Oct. 1, 2007, see section 1(c) of Pub. L. 110–84, set out as an Effective Date of 2007 Amendment note under section 1070a of this title.

§ 1098g. Exemption from State disclosure requirements

Loans made, insured, or guaranteed pursuant to a program authorized by title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) [and 42 U.S.C. 2751 et seq.] shall not be subject to any disclosure requirements of any State law.

(Pub. L. 97–320, title VII, § 701(b), Oct. 15, 1982, 96 Stat. 1538.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in text, is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title IV of the Act is classified generally to this subchapter and part C (§ 2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

CODIFICATION

Section was formerly classified to section 1099 of this title.

Section was enacted as part of the Garn-St Germain Depository Institutions Act of 1982, and not as part of title IV of the Higher Education Act of 1965 which comprises this subchapter.

EFFECTIVE DATE

Section effective both with respect to loans made prior to and after Oct. 15, 1982, see section 701(c) of Pub. L. 97–320, set out as an Effective Date of 1982 Amendment note under section 1603 of Title 15, Commerce and Trade.

PART F–1—HIGHER EDUCATION RELIEF OPPORTUNITIES FOR STUDENTS

CODIFICATION

Part was formerly set out as a note set out under section 1070 of this title.

§ 1098aa. Short title; findings; reference

(a) Short title

This part may be cited as the “Higher Education Relief Opportunities for Students Act of 2003”.

(b) Findings

The Congress finds the following:

(1) There is no more important cause than that of our nation's defense.

(2) The United States will protect the freedom and secure the safety of its citizens.

(3) The United States military is the finest in the world and its personnel are determined to lead the world in pursuit of peace.

(4) Hundreds of thousands of Army, Air Force, Marine Corps, Navy, and Coast Guard reservists and members of the National Guard have been called to active duty or active service.

(5) The men and women of the United States military put their lives on hold, leave their families, jobs, and postsecondary education in order to serve their country and do so with distinction.

(6) There is no more important cause for this Congress than to support the members of the United States military and provide assistance with their transition into and out of active duty and active service.

(c) Reference

References in this part to “the Act” are references to the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(Pub. L. 108–76, § 1, Aug. 18, 2003, 117 Stat. 904.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (c), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, which is classified generally to this chapter and part C (§ 2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

CODIFICATION

Section was formerly set out in a note under section 1070 of this title.

Section was enacted as part of the Higher Education Relief Opportunities for Students Act of 2003, and not as part of title IV of the Higher Education Act of 1965 which comprises this subchapter.

SENSE OF CONGRESS

Pub. L. 110–93, § 1, Sept. 30, 2007, 121 Stat. 999, provided that: “It is the sense of Congress that—